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235097

GLENN E. GROMANN
NY, NJ, DC, TX & MI BARS
* U.S. TAX COURT

November 26, 1993

Thomas Turner, Esq.
Office of Regional Counsel
United States Environmental Protection Agency
Region V
Mail Code CS-3T
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Thomas Bloom, O.S.C.
Office of Regional Counsel
United States Environmental Protection Agency
Mail Code HSRM-6J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Re: Administrative Order of Consent
("A.O.C.") V.W. 93-C-207
Proposed Revision of Statement
of Findings of Facts, Part I

Dear Sirs,

With regard to the above noted A.O.C., pleased be advised that I had previously indicated to Mr. Turner that I was uncomfortable with the "Findings of Fact" noted in Section III of the A.O.C.

I indicated that the same were subject to misuse by third parties and either were inaccurate or omitted important and salient facts. In this respect I indicated that I would be submitting substantial documentation to indicate the true set of facts and circumstances. You indicated that the A.O.C. was subject to modification upon receipt of appropriate documentation.

This letter is a specific request to modify the terms of the Administrative Order of consent in accordance with the agreement noted above and pursuant to Section XVI of the A.O.C.

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The intent herein is to include all relevant facts applicable to: a) potentially responsible parties b) chronology leading up to the current condition of the site.

In this respect I do not intend to be brief and no matter what the ultimate response to my request is, I want to make sure all of these facts are on record. The same is submitted without prejudice and is for informational purposes only:

Statements of Facts

1. On or about November 1968, Mark Twain Marine Industries, Inc. an Illinois Corporation obtained title to the subject premises including approximately 18.273 acres situated in Franklin County, Illinois.

Note: See title abstract attached as exhibit A.

2. As part of the transaction whereby Mark Twain Marine Industries, Inc. took title to the subject property said corporation entered into an SBA mortgage which was executed by the President of the corporation Lee S. Siebert.

Note: See title abstract attached as exhibit A.

3. On or about April 18, 1989, Mark Twain Marine Industries, Inc. executed a Right of Way Agreement to Central Illinois Public Service Corporation.

Note: See title abstract attached as exhibit A.

4. That the title abstract of the subject property discloses the condition of title of the subject premises as delineated in the enclosed pages of the subject abstract (Exhibit A) from page 1 to page 72.

Note: See title abstract attached as exhibit A.

5. That page 48 of the subject abstract is a Journal Entry of Judgement. Said entry was rendered in the abstract Court of Johnson County, Kansas Civil Court Department, Court No. 13.

Note: See title abstract attached as exhibit A.

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6. That the entry of judgement above lists Lewis A. Bracker and others as transferees and purchasers of 844,000 shares of stock of Mark Twain Marine Industries, Inc. from Lee S. Siebert.

Note: See title abstract attached as exhibit A.

7. That at all terms relevant hereto Mark Twain Industries, Inc. (hereinafter "MTM") was engaged in the sale and manufactures of fiberglass boats. MTM did business as the Mark Twain Boat Company.

Note: See title abstract attached as exhibit A.

8. That between 1984 and 1986 MTM experienced financial difficulty with a number of judgments being entered on the record against it.

Note: See title abstract attached as exhibit A.

9. On November 17, 1986, MTM filed a petition for relief under Chapter 11 of the Bankruptcy Code, 11 U.S.C. 101 et. seq. in the United States Bankruptcy Court for the Northern District of Illinois/Eastern Division. That the same is noted in an Order Authorizing the Trustee to Sell Assets Free and Clear of all Liens on June 27, 1988.

Note: See title abstract exhibit A, Page 72.

10. That the bankruptcy case noted above occurred under Docket No. 86-B- 18104 and was presided over by Honorable John H. Squires and that the petition indicated "2. At the date of filing of its petition, the Debtor was engaged in the manufacture and sale of power boats at its plant in West Frankfort Illinois".

Note: See title abstract exhibit A, Page 72.

11. That the "Order Authorizing the Trustee to Sell Assets Free and Clear of Liens and for Related Relief" indicated that "on May 20, 1988 the Trustee received a letter of intent from Glasstream (Boats, Inc.) to purchase all of debtors assets, excluding accounts receivable and cash, for the sum of \$1 million".

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Note: See title abstract exhibit A, Page 73.

12. That the letter of intent attached as exhibit A to the Order noted in paragraph 11 had as a contingency the "4. Determination by Glasstream of the lack of any significant environmental issue with respect to the plant site and the assets to be acquired." (emphasis supplied)

Note: See title abstract exhibit A, Page 80.

13. Pursuant to the Order noted in paragraph 11, the purchaser Glasstream Boats, Inc. would take title to all assets from and clear of "environmental claims" and further that "Any and all liens claims and encumbrances shall attach to the sale proceeds pursuant to 11 U.S.C. 363".

Note: See title abstract exhibit A, Page 77.

14. That Glasstream Boats, Inc. ("Glasstream") was a corporation of the State of Georgia with a mailing address of Post Office Box 943, Highway 129 South Nashville, Georgia. That the principal and president of Glasstream was A.L. Kirkland. That Glasstream Boats Inc. took title to the subject premises by Trustees deed dated July 22, 1988 and recorded July 25, 1988.

Note: See title abstract exhibit A, Page 85.

15. In order to secure the purchase from the bankruptcy estate A.L. Kirkland and Glasstream Boats, Inc. secured a mortgage from Bank South, N.A. The mortgage to Glasstream had as an operative term:

"1.03 Compliance with Laws and Other Restrictions. Mortgagor covenants and represents that the Land and the Improvements and the use thereof presently comply with, and will during the full term of this Mortgagor continue to comply with, all applicable restrictive covenants, zoning and subdivision ordinances and building codes, licenses, health and environmental laws and regulations and all other applicable laws, ordinances, rules and regulations. If any federal, state or other governmental body or any court issues any notice or order to the effect that the Mortgaged such covenant, ordinance, code law or

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regulation, Mortgagor will promptly provide Lender with a copy of such notice or order and will immediately commence and diligently perform all such actions as are necessary to comply therewith or otherwise correct such non-compliance. Mortgagor shall not, without the prior written consent of Lender, petition for or otherwise seek any change in the zoning ordinances or other public or private restrictions applicable to the Mortgaged Property on the date hereof."

Note: See title abstract exhibit A Page 91.

16. During the period after the purchase of the bankruptcy estate of Mark Twain Boat Company, Glasstream Boats, Inc. through A.L. Kirkland operated Mark Twain Boat Company as a subsidizing of Glasstream Boats, Inc. and was engaged in the manufacture of fiberglass boats. The same is reflected in a Transferrers Sworn List of Creditors.

Note: See Sworn List of Creditors attached as exhibit B.

17. As part of the operation of Mark Twain by Glasstream, certain creditors were involved with the supply of goods and services. This included B.F.I. Waste Systems located at 716 Skyline Drive, Marion IL 62959.

Note: See Sworn list of creditors attached as exhibit B.

18. On or about August 18, 1988 Glasstream negotiated the sale of its recently received interest in the bankruptcy estate of Mark Twain Boat Company to Mark Twain Boat Company, Inc. and its principal Robert Atanasov c/o James Gordan, Ltd. (Attorney).

Note: See closing document and letter attached as exhibit C. see abstract exhibit page 132.

Conclusion of Part I

This concludes Part I of my proposed revisions to any facts and circumstances claimed by USEPA as set forth in the Administrative Order of Consent. Pursuant to my freedom of information act request I have reviewed the Site Assessment/Removal Action Plan "prepared by Ecology and Environment, Inc." This document is dated September 28, 1993. It is clear from the review of this document that USEPA ostensibly copied verbatim the

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findings made by Ecology and Environment. These appear in the "Statement of Findings" contained in the A.O.C.

The findings of Ecology and Environment are unclear, inaccurate, and sloppy. Furthermore, certain salient facts are omitted from this report because said contractor did not (nor could not) consult the requisite parties with the proper knowledge to set forth accurate findings. This letter is to correct these improper facts and is not intended in any other purpose.

This letter will follow with Part II of the proposal changes to the statement of facts. This information will further correct obvious mistakes and inaccuracies in the "Statement of Findings" as well as include some salient omitted facts. Please respond to this letter accordingly.

Very truly yours,



Glenn E. Gromann

Cert: RRR
Encls

GEG/cms

Exhibit A

ABSTRACT OF TITLE

TO

COMPILED FOR

BY

FRANKLIN COUNTY
TITLE COMPANY, INC.

SUCCESSOR TO
BURKITT-EDMUND ABSTRACT COMPANY and
W. B. MARTIN ABSTRACT COMPANY

Title Insurance

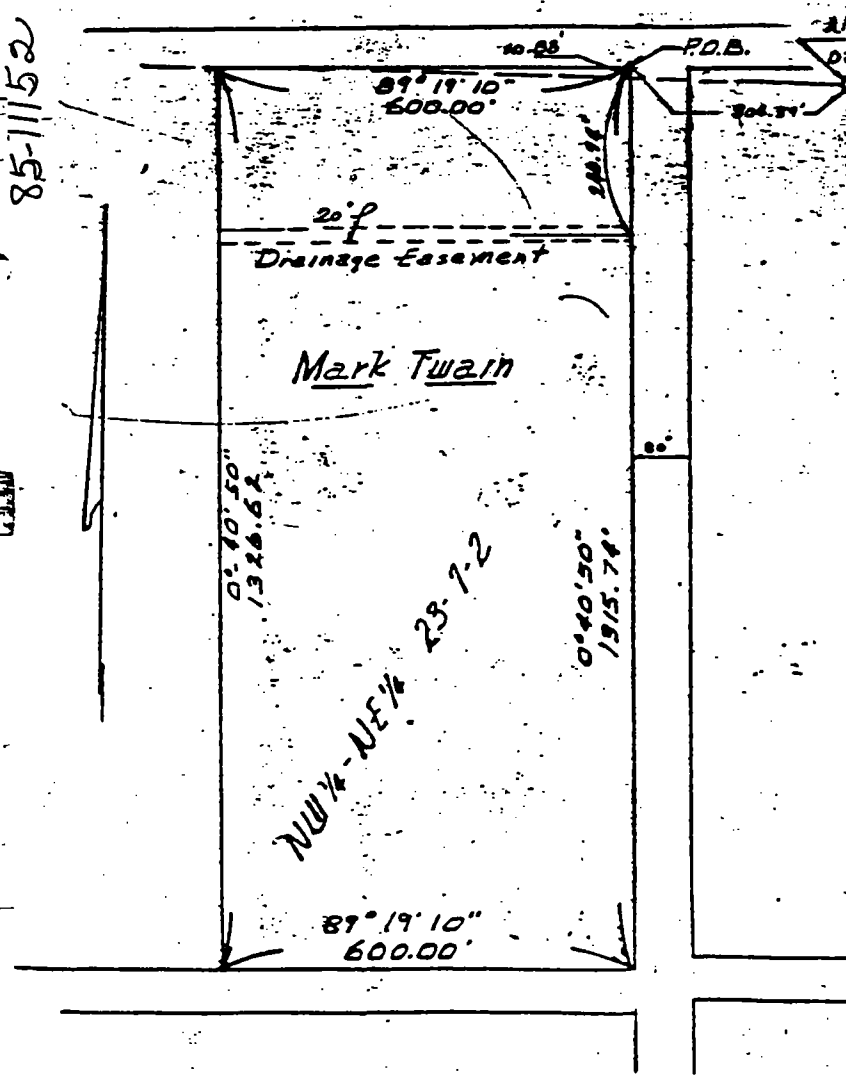
106 W. Main Benton, Ill. 62812

PHONE 618 439-3193

THOMAS PRINT BENTON, ILL.

FRANKLIN COUNTY TITLE COMPANY, INC.
BENTON, ILLINOIS 62812

85-11152



NE Corner of the NW 1/4
of the NE 1/4 of Sec. 23,
T7S, R2E.

City of West Frankfort Annexation Plat Description

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian: thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description: thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a distance of 1,315.74 Feet; thence Westerly on a bearing of North 89 degrees 19 minutes 10 seconds West a distance of 600.00 feet; thence Northerly on a bearing of North 0 degrees 40 minutes 50 seconds East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89 degrees 19 minutes 10 seconds East a distance of 600.00 feet; Thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a distance of 10.88 feet to the Point of Beginning, containing 18.273 acres (795,972 Square Feet) more or less, EXCEPTING, however, and RESERVING to the Grantor herein a tract of land twenty feet (20') in width being ten feet (10') on each side of the following described line: Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of said section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a distance of 240.74 feet to the Point of Beginning for the aforementioned line; thence Westerly on a bearing of North 89 degrees 19 minutes 10 seconds West a distance of 600.00 feet, said tract of land to be used for a drainage easement.

ABSTRACT OF TITLE TO

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION TWENTY-THREE (23), TOWNSHIP SEVEN (7) SOUTH, RANGE TWO (2) EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE WESTERLY ON THE NORTH LINE OF THE SAID NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 23, A DISTANCE OF 304.59 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE SOUTHERLY ON A BEARING OF SOUTH 0° 40' 50" WEST A DISTANCE OF 1315.74 FEET; THENCE WESTERLY ON A BEARING OF NORTH 89° 19' 10" WEST A DISTANCE OF 600.00 FEET; THENCE NORTHERLY ON A BEARING OF NORTH 0° 40' 50" EAST A DISTANCE OF 1326.62 FEET; THENCE EASTERLY ON A BEARING OF SOUTH 89° 19' 10" EAST A DISTANCE OF 600.00 FEET; THENCE SOUTHERLY ON A BEARING OF SOUTH 0° 40' 50" WEST A DISTANCE OF 10.88 FEET TO THE POINT OF BEGINNING, EXCEPTING A TRACT OF LAND 20 FEET IN WIDTH BEING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE NORTHEAST CORNER OF THE NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 23, TOWNSHIP 7 SOUTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, THENCE WESTERLY ON THE NORTH LINE OF THE SAID NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SAID SECTION 23, A DISTANCE OF 304.59 FEET; THENCE SOUTHERLY ON A BEARING OF SOUTH 0° 40' 50" WEST A DISTANCE OF 240.74 FEET TO THE POINT OF BEGINNING FOR THE AFOREMENTIONED LINE; THENCE WESTERLY ON A BEARING OF NORTH 89° 19' 10" WEST A DISTANCE OF 600.00 FEET, AND EXCEPTING THE COAL, OIL, GAS AND OTHER MINERALS UNDERLYING THE SAME AND ALL RIGHTS, SITUATED IN FRANKLIN COUNTY, ILLINOIS.

SUBSEQUENT TO DECEMBER 4, 1968 AT 12:10 P.M.

STATE OF ILLINOIS
County: Franklin SSN 17-5389
This instrument was filed for record
this 4 day of Dec. A.D. 1968
at 12:10 o'clock P.M. and recorded
Marie Miller #6.00 PL
RECORDED, Franklin County, Illinois
PRO TEM

REAL ESTATE MORTGAGE

THIS INDENTURE Made this 19th day of November, A.D., 1968,
between Mark Twain Marine Industries, Inc., a corporation, of the County
of Franklin and State of Illinois (the first party hereto) and the
First Community Bank of West Frankfort, Illinois, a banking corporation,
(the second party hereto). WITNESSETH:

WHEREAS, the said Mark Twain Marine Industries, Inc., is justly
indebted to said second party for money borrowed in the sum of Five
Hundred Ninety Six Thousand Four Hundred Ninety Dollars (\$596,490.00)
evidenced by a certain principal note of even date herewith, executed
by the officers and agents of said corporation, payable to the order
of said second party at said First Community Bank of West Frankfort,
Illinois, and further described as follows: One (1) principal note
in the sum of \$596,490.00, with interest at a rate of one percent (1%)
over the prime rate, as declared by the Bank of St. Louis, St. Louis,
Missouri, said rate of interest being one percent (1%) over prime
rate, to be determined monthly on the due date of equal monthly
installments of both principal and interest hereinafter set forth,
payable in the following manner: The principal sum to be payable in
one hundred eight (108) consecutive monthly installments with the
first monthly installment due thirteen (13) months after date of this
note in the amount of Five Thousand Five Hundred Twenty Three and 05/100
(\$5,523.05) and the last installment due one hundred seven (107)
months thereafter in the principal amount of Five Thousand Five
Hundred Twenty Three and 65/100 (\$5,523.65). Interest to be payable
as follows; six (6) months from the date hereof; twelve (12) months
from the date hereof and thereafter on the due date of each monthly
principal installment aforesaid.

NOW, THEREFORE, said first party, in order to secure the payment
of the principal and interest money aforesaid, represented by the
principal note aforesaid, and in consideration of One (\$1.00) Dollar
unto first party paid by the second party, receipt whereof is hereby
acknowledged, does by these presents grant, bargain, sell, convey,
mortgage and warrant unto the second party and to its successors

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and assigns of said second party forever the following described real estate, situated in the County of Franklin and State of Illinois, to wit:

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description: thence Southerly on a Bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a Bearing of North 89° 10' 10" West a distance of 600.00 feet; thence Northerly on a Bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89° 19' 10" East a distance of 600.00 feet; Thence Southerly on a Bearing of South 0° 40' 50" West a distance of 10.88 feet to the Point of Beginning, containing 18.273 Acres (795,972 Square Feet) more or less, excepting, however, and reserving to the Grantor herein a tract of land twenty feet (20') in width being ten feet (10') on each side of the following described line: Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian: Thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of said Section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.74 feet to the Point of Beginning for the aforementioned line; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet, said tract of land to be used for a drainage easement, all situated in Franklin County, Illinois.

together with all and singular the tenements, hereditaments, rights, privileges and appurtenances thereunto belonging or in any wise appertaining, and together with all the buildings and improvements now or hereafter erected thereon, including all gas and electric fixtures, plumbing apparatus, boilers, furnaces, and all apparatus and fixtures of every kind, now on or which may hereafter be placed upon said premises, hereby releasing and waiving all rights under and by virtue of the Homestead and Exemption Laws of the State of Illinois, and all right to retain possession of said real estate after default in payment or after breach of any covenant or undertaking herein by said first party to be kept and performed;

TO HAVE AND TO HOLD the said real estate unto said second party and to the successors and assigns of said second party forever, for the uses and purposes herein expressed:

And all of the said persons together constituting said first party hereby jointly and severally covenant, promise and agree to and with said second party as follow, to wit:

(1) That said first party is the owner of said real estate in fee simple and has good right to sell and convey and mortgage the same; (2) That said real estate is free from all liens and

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encumbrances; (3) That said first party is in peaceable possession thereof and will forever warrant and defend the same against the lawful claim of all persons whomsoever; (4) To pay the principal and interest moneys hereby secured when and as the same shall become due and payable without deduction for any taxes, rates or governmental charges of any kind, any and all of which said taxes, rates or governmental charges upon the ownership of the party of the second part hereto or upon the notes or indebtedness secured hereby shall be paid by the party of the first part; (5) Not to construct, permit or suffer, without the written consent of second party being first secured, any alterations, additions to, demolitions or removal of any building or other improvement upon said premises; Not to suffer any liens superior to the lien hereby created to attach to or be enforced against said real estate, nor commit or permit waste on said real estate, nor allow any buildings situated thereon to become vacant or unoccupied; (6) To pay all taxes and assessments of every kind that may be levied or assessed within the State of Illinois upon said real estate, or any part thereof, or upon the ownership of said party of the second part in said real estate, or upon the notes or indebtedness secured by this Mortgage, punctually when any taxes and assessments as aforesaid may become due and payable; (7) To procure and keep in force policies of insurance, insuring the buildings and other improvements which now are or hereafter may be on said real estate, against damage by fire, windstorm and such other hazards as second party may require to be insured against, for an amount and in stock companies at all times satisfactory to said second party, so long as any part of the indebtedness hereby secured shall remain unpaid, and to deliver the policies representing said insurance to second party with standard mortgage clauses attached to said policies, making the loss thereunder, if any, payable to said second party as additional security; (8) That said second party may pay any and all taxes or assessments or attorneys' or solicitors' fees as in this mortgage provided, redeem the said real estate from tax or assessment, sale, remove all statutory or other liens therefrom and procure said fire insurance on failure of the first party to do so; and all moneys so advanced, with interest at the yearly rate of seven (7%) percent shall be secured by this mortgage and shall be repaid by said first party on demand or on demand made on the party then in possession of said real estate; (9) That said second party shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same as aforesaid, but shall be entitled, without prejudice to any other right hereunder to make an advance or advances for all or any of the purposes aforesaid, whenever in the sole judgment or discretion of said second party, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this mortgage; (10) That if default shall be made in the payment of said principal note, or any installment thereof, when due, or if there shall be default in the performance of any covenant, undertaking, promise or condition expressed in or implied by this mortgage and by the party of the first part to be kept and performed, then and in either such case, the whole indebtedness secured hereby, including all payments made by the party of the second part for liens, taxes, assessments, fire insurance premiums, attorneys' fees, costs charges shall, at the option of the second party, forthwith become due and payable and may be collected at once by foreclosure or otherwise and without notice of broken covenant, condition, promise or undertaking; (11) That the principal sum secured by this mortgage, less any proper credit for money already paid on account of said principal sum, shall, in case of such default and the exercise of such option, bear interest until said principal sum shall be fully paid, at the yearly rate of seven (7%) percent as agreed, assessed and liquidated damages for such default, and this mortgage shall stand as security therefore and thereupon may be foreclosed to pay the same; (12) That upon any such default, it shall be lawful for the party of the second part, at the option of

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the said party of the second part, to enter into and upon the real estate hereby granted, or any part thereof, and to receive all rents, issues and profits thereof; (13) That in case proceedings shall be brought to foreclose this mortgage or to collect all or any part of the principal or interest money represented by the note hereby secured, or in case any other suit or proceeding shall be brought either at law or in equity wherein said second party shall be united or joined by reason of this mortgage, said second party shall be allowed, and the first party shall and will pay, all costs and expenses paid or incurred by said second party in or about any proceeding or suit as aforesaid, either in foreclosure or otherwise, at any time, whether such costs and expenses shall be paid after the commencement of foreclosure proceedings or suit as aforesaid or otherwise, including reasonable attorneys' and solicitors' fees and the cost of an abstract of title to said real estate and all continuations of said abstract, which said several sums shall be included in any decree or judgment entered in such foreclosure or other suit; (14) That if any proceedings shall be brought to foreclose this mortgage or to collect the principal or interest represented by the note hereinbefore recited, the court may, upon application at any time before the expiration of the period of redemption from the foreclosure or other judgment or decree, appoint a receiver to take possession, control and care of said real estate and collect the rents and profits thereof and apply the net proceeds to the payment of the debt hereby secured, and such application for the appointment of a receiver shall in no manner prevent or retard the collection of all the sums secured by this mortgage, either by foreclosure or otherwise; (15) That any failure of the party of the second part to exercise any right or option by this mortgage given or reserved to said party of the second part shall not stop said party of the second part from exercising any such right or option upon any subsequent default of the party of the first part; (16) That all rights and remedies given or reserved to said second party shall be cumulative and may be all exercised contemporaneously so that the exercise of one or more of said rights or remedies shall not exclude or prevent the exercise of the other or others thereof; (17) That all the covenants, promises, undertakings, agreements, rights, remedies, privileges, benefits and obligations by this instrument imposed upon or reserved unto the respective parties hereto, shall respectively extend to and be binding upon the respective heirs, executors, administrators, successors and assigns of said party: Provided, always, nevertheless that if said first party shall pay all of the said indebtedness and shall keep and perform all the covenants, undertakings, promises and agreements by said first party to be kept and performed and expressed in this mortgage or in the note accompanying the same, then this mortgage shall be released at the cost of said first party.

IN WITNESS WHEREOF, each of the persons hereinbelow recited as, constituting together the party of the first part has hereunto set his hand and seal this day and year first above written.

MARK TWAIN MARINE INDUSTRIES, INC.



By: Lee Schibert
President

Esther Gendal
Secretary

County of Jackson)
State of Illinois) SS

I, John H. Hackett, a Notary Public in and for the

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said County and State, do hereby certify that Lee S. Diebst
Gertrude Gandal

personally known to me to be the same persons whose names are sub-
scribed to the foregoing instrument, appeared before me this day
in person and acknowledged that they signed, sealed, and delivered
the said instrument as their free and voluntary act for the uses
and purposes therein set forth, including the release and waiver
of the right of homestead and dower.

Given under my hand and notarial seal this 19th day of
November, A.D., 1968.



Helen Hocker
Notary Public

My Commission expires Mar. 24, 1970

DEED

Filed and Recorded Dec. 4, 1968 at 12:10 o'clock P. M.

Microfilm #17-5390

Maria Miller Recorder.

#300 pl

THE GRANTOR, West Frankfort Community Council, Inc., an Illinois Not For Profit Corporation, created and existing under and by virtue of the laws of the State of Illinois, for the consideration of One Hundred Fifty Nine Thousand (\$159,000.00) Dollars, in hand paid, and pursuant to authority given by the Board of Directors of said corporation CONVEYS unto Mark Twain Marine Industries, Inc., an Illinois Corporation, of the City of West Frankfort, all interest in the following described Real Estate situated in the County of Franklin and State of Illinois, to wit:

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description: thence Southerly on a Bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a Bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a Bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89° 19' 10" East a distance of 600.00 feet; Thence Southerly on a Bearing of South 0° 40' 50" West a distance of 10.88 feet to the Point of Beginning, containing 18.273 Acres (795,972 Square Feet) more or less, excepting, however, and reserving to the Grantor herein a tract of land twenty feet (20') in width being ten feet (10') on each side of the following described line: Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of said Section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.74 feet to the Point of Beginning for the aforementioned line; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet, said tract of land to be used for a drainage easement, all situated in Franklin County, Illinois.

In Witness Whereof, said Grantor has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its President, and Attested by its Secretary, this 21st day of October, 1968.



WEST FRANKFORT COMMUNITY COUNCIL, INC.
AN ILLINOIS NOT FOR PROFIT CORPORATION.

BY: L. L. Joulinson
President

ATTEST: R. L. Brown
Secretary

FRANKLIN
CO. NO. 028
016195



STATE OF ILLINOIS
REAL ESTATE TRANSFER TAX
DEPT. OF REVENUE
159.00

State of Illinois)
) SS
County of Franklin)

1968
17-5390

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that L. F. Tomlinson personally known to me to be the President of the West Frankfort Community Council, Inc., an Illinois Not For Profit Corporation, and Robert L. Brown personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument as President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 24 day of October, 1968.



G. P. Lockard
Notary Public

SBA Collateral File

Loan No. EDAED 06-3-00522-Illinois

MORTGAGE

1968
17-5515

THIS MORTGAGE, Made this 9th day of December in the year of Our Lord, One Thousand Nine Hundred and Sixty-eight by and between:

Mark Twain Marine Industries, Inc., (An Illinois Corporation)

of the County of: Franklin and the State of Illinois, (hereinafter jointly and severally referred to as "Mortgagor"), and SMALL BUSINESS ADMINISTRATION, St. Louis, Missouri, (hereinafter jointly and severally referred to as "Mortgagee");

WITNESSETH: That said Mortgagor, for and in consideration of a loan of:

TWO MILLION THIRTY SIX THOUSAND FOUR HUNDRED FIFTY & NO/100 - - - - - Dollars, to the Mortgagor made by the said Mortgagee, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, and convey unto the Mortgagee, and to its successors and assigns forever, all of the following described tract(s), piece(s), and parcel(s) of land lying and situated in the County of: Franklin and State of Illinois, TO-WIT:

Beginning at the Northeast corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the Said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description: thence Southerly on a Bearing of South 6° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a Bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a Bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89° 19' 10" East a distance of 600.00 feet; Thence Southerly on a Bearing of South 0° 40' 50" West a distance of 10.88 feet to the Point of Beginning, containing 18.273 Acres (795,972 Square Feet) more or less, all situated in Franklin County, Illinois.

TO HAVE AND TO HOLD The same with all and singular, the fixtures thereon and appurtenances thereto belonging, unto the said Mortgagee, and to its successors and assigns forever, provided always, and this instrument is made, executed and delivered upon the following conditions, TO-WIT:

WHEREAS, the said Mortgagor has executed and delivered to the said Mortgagee its Promissory Note dated: December 9 1968, which the Mortgagor promises to pay to the said Mortgagee or order, for value received:

TWO MILLION THIRTY SIX THOUSAND FOUR HUNDRED FIFTY & NO/100 - - - - - Dollars, with interest from the date thereof to maturity at the rate of four & three-fourths per cent, per annum, payable as follows:

Note Payable Eighteen years (18) from date of note, with provision for (i) eleven (11) monthly payments of interest at the rate of four and three-fourths percent ($4\frac{3}{4}\%$) per annum, commencing sixty days from date of Note, and (ii) installments, including principal and interest at the rate of four and three-fourths percent ($4\frac{3}{4}\%$) per annum, each in the amount of \$14,569 payable monthly, commencing thirteen (13) months from date of note, and the balance of principal and interest payable eighteen (18) years from date of Note with the further provision that each said installment shall be applied first to interest accrued to the date of receipt thereof and the balance, if any, to principal.

Net Earnings Clause covering 50% of Borrower's net earnings first effective for Borrower's net earnings first effective for Borrower's fiscal year ending during 1972; provided, however, that computation of Borrower's net earnings thereunder shall be made after provision for income taxes and the greater of (i) depreciation or (ii) principal payments on account of the First Mortgage Loan and the Loan; provided that any such payment shall not be made to the extent that it reduces Borrower's net working capital below \$800,000.

And to secure the payment of the above amount we the makers, indorsers, sureties and guarantors of this Note, or either of us or any one or more of us, hereby authorize and empower irrevocably any Attorney of any Court of Record, if this Note is not paid at any stated or accelerated maturity, to appear for either of us or for any one or more of us, in any Court of Record of this State or of the United States either in term or in vacation, and enter our appearance in any such court, and for us and in our name and stead, to waive process and service of process and confess judgment on this Note in favor of the payee or holder thereof, and against such makers indorsers, sureties and guarantors, or either of us or any one or more of us, for the amount of the principal sum of this Note and all interest thereon, which may appear to be unpaid, with court costs and reasonable Attorney's fee, and to waive and release all errors that may intervene in any such proceeding and consent to immediate execution upon such judgment, hereby ratifying and confirming all that our said attorney may do by virtue hereof. The makers and endorsers hereof authorize the holder, if it be a bank, at any time after any stated or accelerated maturity, to apply toward the payment of this Note, any money which such bank may have in any of their deposit accounts.

This Note is secured by Real Estate Mortgage; Security Agreement; and Contract Agreement. AND Deed of Trust.

1968
17-5515

NOW, if the said Mortgagor shall well and truly pay, or cause to be paid, the sum(s) of money in said Note mentioned, with the interest thereon, according to the tenor and effect of said Note, then these presents shall be null and void. But, if said sum(s) of money or either of them, or any part thereof, or any interest thereon, be not paid when the same becomes due, then, and in that case, the whole of said sum(s) and interest shall, at the

SBA StL 144, Mortgage
(Corporation)

1968
17-5515

option of said Mortgagee, or assigns, by virtue of this Mortgage, immediately become due and payable, or, if the taxes and assessments of every nature which are or may be assessed against said land and appurtenances, or either of them, or any part thereof, are not paid at the time when the same are by law made due and payable, then in like manner the said Note and the whole of said sum(s) shall immediately become due and payable; and it shall be lawful for said Mortgagee, its agents or Attorneys, to enter into and upon said premises, and to receive all rents, issues, and profits, thereof, the same when collected, after the deduction of reasonable expenses, to be applied upon the indebtedness secured hereby and upon forfeiture of this Mortgage, or in case of default in any of the payments herein provided for, the Mortgagee, its successors and assigns, shall be entitled to a judgment for the sum(s) due upon said Note(s) and the additional sums paid by virtue of this Mortgage, and all costs and expenses or enforcing the same, as provided by law, and a decree for the sale of said premises in satisfaction of said judgment, foreclosing all rights and equities in and to said premises of said Mortgagor their/his/her heirs and assigns, and all other persons claiming under the Mortgagor, at which sale, appraisal of said property is hereby waived by said Mortgagor, and all benefits of the Homestead Exemption and Stay Laws and Redemption Laws of the State of Illinois are hereby waived by said Mortgagor.

AND WHEREAS, Said Mortgagor does for their/his/her heirs, legal representatives, vendee and assigns, hereby covenant, agree, and stipulate to and with said Mortgagee, its successors, vendees and assigns:

First, That the lien created by this instrument is a prior lien unless specifically made subject to other liens, on the above-described land and improvements, to keep said land and improvements free from all liens claims of every kind and to protect the title and possession of said premises so that this Mortgage shall be a prior lien thereon until said debt be paid, or if sale be had thereunder, so that the purchaser at said sale shall acquire a good title in fee simple to said premises clear of encumbrance, to furnish and leave with the Mortgagee, during the existence of said loan, complete abstract of title to said land, to become the property of the purchaser in case of foreclosure of this Mortgage.

Second, To pay forthwith all taxes, assessments and public charges, general, and special, now existing against said lands and improvements, and to pay within thirty days after the same can be paid, all taxes, assessments, and public charges general and special hereafter levied or assessed thereon.

Third, To keep all buildings and improvements above-described insured against loss by fire and such other hazards in an amount as the Mortgagee may require. The policies of such insurance shall be deposited with the Mortgagee with a satisfactory mortgage clause in favor of the Mortgagee attached thereto, and shall be in forms and amounts and issued by companies satisfactory to the Mortgagee. In default thereof said Mortgagee may at its option effect such insurance in its own name, and the premium or premiums, costs, charges, and expenses for effecting the same shall be an additional lien on said mortgaged property, and may at its option pay any taxes or statutory liens against said property, all of which sums with per cent interest may be enforced and collected in the same manner as the principal debt hereby secured. The Mortgagee may collect the proceeds of any insurance which may become due, and at its option after deducting the expenses of such collection apply the balance as it deems necessary within the sole discretion by Mortgagee.

Fourth, To keep said improvements in good repair, and, if under construction, complete said building, and, commit no waste thereon, nor do any other act whereby the property hereby conveyed shall become less valuable.

Fifth, That the Mortgagor will not sell, lease, transfer, alienate, deteriorate, encumber, mortgage or pledge its interest, or any part thereof, in any of the property except with the knowledge and consent of the Mortgagee.

AND The said Mortgagor does hereby covenant and agree that at the delivery hereof said Mortgagor is the lawful owner of the premises above granted and seized of a good and indefeasible estate of inheritance therein, free, and clear of all encumbrance and that the Mortgagor will Warrant and Defend the same in the quiet and peaceable possession of the Mortgagee, its successors and assigns forever, against the lawful claim of all persons whomsoever, except:

All references to Small Business Administration, or SBA, herein are agreed to, and deemed by the parties hereto to apply to the Economic Development Administration.

IN WITNESS WHEREOF, said Mortgagee has set its hand the day and year first hereinbefore written.



Mark Twain Marine Industries, Inc.
(An Illinois Corporation)

By: Lee S. Schickel

ACKNOWLEDGEMENT FOR INDIVIDUAL(S)

State of Illinois }
County of _____ } ss:

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared:

to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they/he/she executed the same as their/his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County and State, the day and year last above-written.

(Seal)

My commission expires: _____

Notary Public in and for said County and State

CORPORATE ACKNOWLEDGEMENT

State of Missouri }
County of Jackson } ss:
County of Franklin

On this 9th day of December, 1968, before me, appeared:

Lee S. Schickel to me personally known, who being by me duly sworn, did say that he is the _____ President of:

Mark Twain Marine Industries, Inc., (An Illinois Corporation) a Corporation, and that the seal affixed to the foregoing instrument is the Corporate seal of said Corporation and that said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and said Lee S. Schickel acknowledged instrument to be the free act and deed of said Corporation, including the waiver of said rights of redemption.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal at my office in said County and State, the day and year last above-written.

(Seal)

My commission expires: Feb. 7, 1972

Mildred M. Stall
Notary Public in and for said County and State



STATE OF ILLINOIS } SS No. 17-5515
County of Franklin }
This instrument was filed for record
this 12 day of Dec, A.D. 1968
at 10:45 o'clock A.M. and recorded

Marie Miller #6.5
RECORDER, Franklin County, Illinois
PRO TEN

#18-1713

A-2460

RIGHT OF WAY GRANT

18-1713

KNOW ALL MEN BY THESE PRESENTS:

That the Grantor, **MARK TWAIN MARINE INDUSTRIES, INC., an Illinois Corporation,**
of West Frankfort, Franklin County, Illinois,

In consideration of the sum of **One Dollar (\$1.00)** in hand paid by Central Illinois Public Service Company, the Grantee herein, the receipt whereof is hereby acknowledged, ~~and the receipt whereof is hereby acknowledged~~ hereby grant to the said Grantee, its successors or assigns, the right to construct, operate, maintain and replace ~~any and all~~ an electric line including ~~poles, towers, cross-arms, buried cables, pad mounted transformers, service pedestals and necessary fixtures attached thereto, upon,~~ over, under, across and through the land hereinafter described, such line to form a part of ~~any and all~~ an electrical system to be owned and operated by the said Grantee, its successors or assigns, extending from the land owned by the said Grantee and structures thereon in **Franklin** County, Illinois, to other lands and structures located beyond the land hereinafter described, with the right to trim or remove trees and brush on the said land which in the opinion of Grantee would otherwise interfere with the construction, operation and maintenance of the said line, together with the right of ingress and egress to and from such line. It is understood and agreed that when any portion of said line is placed beneath the surface of the above described land, that it will be buried a minimum of twenty-four inches below the surface. Any damage to any property of the Grantor, properly attributable to the employees, agents or contractors of Grantee, shall be promptly paid by the said Grantee. The land of the Grantor upon, over, under, across and through which this grant is given and the location of the said line to be constructed thereon is described as follows:

Beginning at the Northeast Corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section Twenty Three (Sec. 23), in Township Seven South (T.7 S.), Range Two East (R.2 E.) of the Third Principal Meridian (3rd P.M.), Franklin County, Illinois, thence Westerly on the North line of said quarter quarter section a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a bearing of South 0° 40' 50" West a distance of 1,315.74 feet, thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet, thence Northerly on a bearing of North 0° 40' 50" East a distance of 1,326.62 feet, thence Easterly on a bearing of South 89° 19' 10" East a distance of 600.00 feet, thence Southerly on a bearing of South 0° 40' 50" West a distance of 10.88 feet to the point of beginning.

The said underground line to begin at a point on the East line of the above described land Eight Hundred Thirty Five Feet (835') South of the North line of said land and thence extend Westwardly to pad-mounted transformer.

Grantors hereby reserve the right to make other uses of the land within said easement provided such uses shall not interfere with the use or exercise of the rights herein granted and Grantor shall not erect permanent structures above said facilities.

~~And the Grantor hereby warrants that the above described land is not subject to any other liens or encumbrances, and that the same is not subject to any other liens or encumbrances.~~

Dated this 18 day of April, A. D. 19 69.

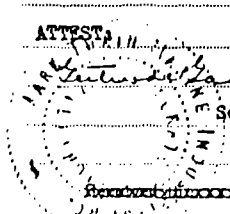
(Seal) **MARK TWAIN MARINE INDUSTRIES, INC.** (Seal)

By Lee Schelbert (Seal)

President. (Seal)

(Seal) Secretary. (Seal)

(Seal) (Seal)



STATE OF

COUNTY OF

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that Mark J. Miller personally known to me to be the President of the Mark J. Miller Machine Corporation and Robert J. Miller personally known to me to be the Secretary of the said Corporation, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument of writing as President and Secretary of the said Corporation, and each of them of the said Corporation to be affixed thereto pursuant to authority given by the Board of Directors of the said Corporation, as their free and voluntary act, and as the free and voluntary act and deed of the said Corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 10th day of April, A. D. 1969

My Commission expires

My Commission Expires Mar. 24, 1973

Walter H. Miller
Notary Public

STATE OF

COUNTY OF

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that

_____ personally known to me to be the same person, whose name _____ subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that _____ signed, sealed and delivered the said instrument as _____ free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, A. D. 1969

My Commission expires

Notary Public

STATE OF

COUNTY OF

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that

_____ personally known to me to be the same person, whose name _____ subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that _____ signed, sealed and delivered the said instrument as _____ free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, A. D. 1969

My Commission expires

Notary Public } SS No. 18-1713
County of Franklin

This instrument was filed for record

this 25th day of April, A. D. 1969

at 11:20 o'clock A. M. and recorded

Marle Miller 302
RECORDER, Franklin County, Illinois

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that

_____ personally known to me to be the same person, whose name _____ subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that _____ signed, sealed and delivered the said instrument as _____ free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, A. D. 1969

My Commission expires

Notary Public

81-2877

in consideration of the sum of On Dollar - - - - - (\$1.00) - - - - - in hand paid by Central Illinois
Public Service Company, the Grantee herein, the receipt whereof is hereby acknowledged ~~and the further consideration of~~
XXXXXXXXXXXXXXXXXXXXXXXXXXXX hereby grant s. to the said Grantee, its successors or assigns, the right
to construct, operate, maintain and replace ~~a~~ ^{an} electric line including poles, wires, guys, anchors, buried cables, pad
mounted transformers, service pedestals and necessary fixtures attached thereto, upon, over, under, across and through the land
hereinafter described, such line to form a part of ~~a~~ ^{an} electrical system to be owned and operated by the said Grantee,
its successor or assigns, extending from the land owned by the said Grantee and structures therein Franklin,

County, Illinois, to other lands and structures located beyond the land hereinafter described with the right to trim or remove trees and brush on the said land which in the opinion of Grantee would otherwise interfere with the construction, operation and maintenance of the said line all with no additional payment, together with the right of ingress and egress to and from such line By the acceptance hereof, the Grantee agrees to bury such ~~power and~~ electric line so that it will not interfere with the cultivation or drainage of the land. Actual damage to livestock, crops, fences, tile and soil of the Grantor its, heirs, assigns, or tenants, caused by the employees, agents or contractors of the Grantee, its successors and assigns, shall be promptly paid by the said Grantee, its successors and assigns. Grantor agrees not to erect any building or structure or create or permit any hazard or obstruction of any kind or character which may interfere with the construction, reconstruction, maintenance, inspection or new connections to said line without the written consent of Grantee, its successors and assigns. The land of the Grantor upon, over, under, across and through which this grant is given and the location of the said line to be constructed thereon is described as follows:

Part of the Northwest Quarter(NW¼) of the Northeast Quarter(NE¼) of Section Twenty-Three (Sec.23), Township Seven South(T.7.S.), Range Two East(R.2.E.) of the Third Principal Meridian(3rd P.M.), Franklin County, Illinois, described as follows: Beginning at the Northeast corner of said Northwest Quarter of the Northeast Quarter of Sec. 23, thence Westerly on the North line of said quarter quarter section, a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a bearing of South 0°40'50" West, a distance of 1,315.74 feet; thence Westerly on a bearing of North 89°19'10" West a distance of 600.00 feet; thence Northerly on a bearing of North 0°40'50" East a distance of 1,326.62 feet; thence Easterly on a bearing of South 89°19'10" East a distance of 600.00 feet; thence Southerly on a bearing of South 0°40'50" West a distance of 10.88 feet to the point of beginning.

The said electric line to be located under, upon, along and within the East Twenty-Seven(27) feet of the South Five Hundred Feet(500) of the above described tract of land.

It should be our common duty to oppose the furtherance of any government action which would deprive the people of their right to have their right to become both rock and soil.

Dated this 18TH day of JUNE, A. D. 1981.

Attest: Norma L. Cannon (Seal)
Secretary.

Mark Twain Marine Industries, Inc. (Seal)

BY: William V. Oger (Seal)
V- President

(Seal)

(Seal)

(Seal)

This Instrument was prepared by:

R. F. Manfredo
Central Illinois Public Service Company
607 East Adams, Springfield, Illinois

STATE OF Illinois }
COUNTY OF Franklin } m.

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that William Boyer and
Norma J. Cannon

personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 28th day of June A. D. 19 81

My Commission expires 6-18-84

Roland J. Mansfield
Notary Public

STATE OF _____ }
COUNTY OF _____ } m.

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that _____

personally known to me to be the same person whose name _____ subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that _____ signed, sealed and delivered the said instrument as _____ free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____

My Commission expires _____

STATE OF ILLINOIS
County of Franklin
A. D. 19
Document No. 81-2877

Notarized for record

JUN 23 1981
at 8:00 o'clock P.M.
Fee paid \$ 5.00

Bob Miller
Recorder

STATE OF _____ }
COUNTY OF _____ } m.

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that _____

personally known to me to be the same person whose name _____ subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that _____ signed, sealed and delivered the said instrument as _____ free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____ A. D. 19 _____

My Commission expires _____

Notary Public

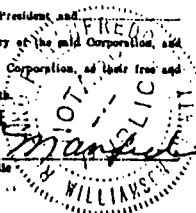
STATE OF Illinois }
COUNTY OF Franklin } m.

I, the undersigned, a Notary Public in and for the state and county aforesaid, do hereby certify that William Boyer personally known to me to be the Vice President of the Mark Twain Marine Industries, Inc. and Norma J. Cannon personally known to me to be the _____ Secretary of the said Corporation, whose names are subscribed to the foregoing instrument, appeared before me this day in person and mutually acknowledged that as such Vice President and Secretary, they signed and delivered the said instrument of writing as Vice President and _____ Secretary of the said Corporation, and caused the seal of the said Corporation to be affixed thereto pursuant to authority given by the Board of Directors of the said Corporation, at their free and voluntary act, and as the free and voluntary act and deed of the said Corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 18th day of June A. D. 19 81

My Commission expires 6-18-84

Roland J. Mansfield
Notary Public



This Indenture, WITNESSETH, That the Mortgagor Mark Twain Marine Industries, Inc.

a corporation duly organized and doing business
under and by virtue of the laws of the State of Missouri having its principal office in the
of Franklin County of Illinois and State of Illinois

Mortgages and Warrants to Bank of St. Louis

a corporation duly organized and doing business
under and by virtue of the laws of the State of Missouri having its principal office in the
of St. Louis ~~XXXXXX~~ and State of Missouri

to secure the payment of a certain indebtedness evidenced by: one (1) promissory note in the amount of ONE MILLION FOUR HUNDRED THOUSAND (\$1,400,000.00) DOLLARS with interest after date at a rate equal to the from time to time per annum prime rate of interest for corporate borrowers as established by the Bank from time to time with accrued interest payable monthly, said note dated February 8, 1984.

The Following Described Real Estate, to-wit:

SEE EXHIBIT "A" ATTACHED

STATE OF ILLINOIS
County of FranklinDocument No. 84-1591
Filed for record

MAR 19 1984

at 1:10 o'clock P.M.
Fee paid \$ 1.00Rec'd
RECORDEDsituated in the _____ of _____ County of Franklin and State of Illinois.**This Mortgage,** is made, executed and delivered pursuant to a resolution of the Board of Directors

of the said Corporation duly passed on the 8th day of Feb 1984, as shown on page _____
of the Records of the Corporation, hereby releasing and waiving all right to retain possession after a breach in any of the covenants herein.

The Mortgagor covenant and agree as follows: (1) to pay said indebtedness, and the interest thereon, as herein and in said notes and coupons provided, or according to any agreement extending time of payment; (2) to pay prior to the first day of July in each year, all taxes and assessments against said premises, and on demand, to exhibit receipts thereof; (3) within sixty days after destruction or damage to rebuild or restore all buildings or improvements on said premises that may have been destroyed or damaged; (4) that waste to said premises shall not be committed or suffered; (5) to keep all buildings at any time on said premises insured against loss by fire, in companies to be approved by the said mortgagee, to the full insurable value thereof, with the usual mortgage clauses attached, in favor of, and deliver all such policies to said mortgagee; and (6) not to suffer any mechanics or other lien to attach to said premises. In the event of failure so to insure, or pay taxes or assessments, the mortgagee, or the holder of said indebtedness, may procure such insurance, or pay such taxes or assessments, or discharge or purchase any tax lien or title effecting said premises, and all money so paid, the mortgagor agree to repay immediately without demand, and the same, with interest thereon from the date of payment at seven per cent. per annum, shall be so much additional indebtedness secured hereby.

In the Event of a breach of any of the aforesaid covenants or agreements, the whole of said indebtedness, including principal and all earned interest, shall, at the option of the legal holder thereof, without notice, become immediately due and payable, and with interest thereon from time of such breach, at TWENTY % per annum, shall be recoverable by foreclosure hereof, or by suit at law, or both, the same as if all of said indebtedness had then matured by express terms.

It is Agreed by the mortgagor that all expenses and disbursements, paid or incurred in behalf of complainant in connection with the foreclosure hereof—including _____ Dollars, solicitor's fees, outlays for documentary evidence, stenographer's charges, cost of procuring or completing abstract showing the whole title to said premises embracing foreclosure decree—shall be paid by the mortgagor; and the like expenses and disbursements, occasioned by any suit or proceeding wherein the mortgagee, as such, may be a party, shall also be paid by the mortgagor. All such expenses and disbursements shall be an additional lien upon said premises, shall be taxed as costs and included in any decree that may be rendered in such foreclosure proceeding; which proceeding, whether decree of sale shall have been entered or not, shall not be dismissed, nor a release hereof given, until all such expenses and disbursements, and the costs of suit, including solicitor's fees, have been paid. The mortgagor waive all right to the possession of, and income from, said premises, pending such foreclosure proceedings; and until the period of redemption from any sale thereunder expires, and agree that upon the filing of any bill to foreclose this Mortgage Deed, a Receiver shall and may at once be appointed to take possession or charge of said premises, and collect such income, and the same, less receivership expenditures, including repairs, insurance premiums, taxes, assessments and his commissions, to pay to the person entitled to a deed under the certificate of sale, or in reduction of the redemption money if said premises be redeemed.

And it is Further Mutually Understood and Agreed, by and between the said parties hereto, that the covenants and agreements herein contained or entered into hereby, shall apply to, and, as far as the law allows, be binding upon and be for the benefit of the heirs, executors, administrators and assigns of the said parties respectively.

In Witness Whereof, the said Mark Twain Marine Industries, Inc.

hath caused these presents to be signed by its _____ President, attested by its _____ Secretary

and its corporate seal to be hereto affixed, on this 8th day of February A. D. 19 84Mark Twain Marine Industries, Inc.By Richard R. McGehee
PresidentAttest: Howard Darnell
Secretary

84-1591

State of Illinois County, Franklin

I, Notary Public



in and for said County in the State aforesaid,
Do hereby Certify, That Roland A. Mayotte personally known
to me to be the President of the Mark Twain Marine Industries, Inc.
and Howard Darnell personally known to me to be the
Secretary of said Corporation, whose names are subscribed to the foregoing
instrument, appeared before me this day in person and severally acknowledged that as such

President and Howard Darnell Secretary, they signed and delivered the
said instrument of writing as President and as Secretary
of said Corporation, and caused the seal of said Corporation to
be affixed thereto, pursuant to authority given by the Board of Directors
of said Corporation as their free and voluntary act, and as the free and
voluntary act and deed of said Corporation for the uses and purposes therein
set forth.

Given under my hand and seal, this

18th day of April, A. D. 1984

Notary Public

No. _____

MORTGAGE

to _____

State of _____ ss. No. _____
County, _____

This instrument was filed for record in
the Recorder's office of _____
County aforesaid, on the _____ day
of _____, A. D. 19____, at
o'clock _____ M., and recorded in Book _____
of _____ on page _____

Recorder.

EXHIBIT "A"

84-1591

A tract of land situated in the Southwest Quarter of the Southeast Quarter of Section 14, and in the Northwest Quarter of the Northeast Quarter of Section 23, all in Township 7 South, Range 2 East of the Third P.M., County of Franklin, State of Illinois, and more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter of the Northeast Quarter of said Section 23; thence West 272 degrees, 4 minutes, 45 seconds along the North line of said Northwest Quarter of the Northeast Quarter of Section 23, a distance of 304.59 feet to a point, thence South $0^{\circ} 40' 50''$ West a distance of 1,315.74 feet; thence Westerly on a bearing of North $89^{\circ} 19' 10''$ West a distance of 600.00 feet; thence Northerly on a bearing of North $0^{\circ} 40' 50''$ East a distance of 1,326.62 feet; thence Easterly on a bearing of South $89^{\circ} 19' 10''$ East a distance of 600.00 feet; thence Southerly on a bearing of South $0^{\circ} 40' 50''$ West a distance of 10.88 feet to the point of beginning, all situated in FRANKLIN COUNTY, ILLINOIS, excepting all the coal, oil, gas and other minerals underlying the same.

EASEMENT DESCRIPTIONS:

- TRACT 1: A strip 80 feet wide, 40 feet on each side of the center line described as follows: Beginning at a point 264.74 feet West of Northeast corner and on the North line of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third P.M., thence Southerly on said center line South $0^{\circ} 40' 50''$ West a distance of 1,795.17 feet to South property line of Franklin County Industrial Park.
- TRACT 2: A strip 60 feet wide being 30 feet on each side of the center line described as follows: Beginning at the Northeast corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third P.M., thence Westerly on the North line of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section, bearing North $87^{\circ} 55' 15''$ West 304.59 feet, thence Southerly South $0^{\circ} 40' 50''$ West 1345.74 feet to the point of Beginning, thence Westerly on a bearing North $89^{\circ} 19' 10''$ West 600.00 feet.

\$ 1,400,000.00-----

February 8, 19 84

NOTE

FOR VALUE RECEIVED, the undersigned jointly and severally hereby promise to pay on demand, and if no demand be made, then on the 1st day of June, 19 90, to the order of BANK OF ST. LOUIS (the "Bank") at its principal office in the City of St. Louis, Missouri, the lesser of ONE MILLION FOUR HUNDRED THOUSAND AND NO/100ths Dollars or the then outstanding and unpaid balance of the sums advanced or readvanced to, at the direction of or for the benefit of any of the undersigned under this Note, with interest after date at a rate equal to 2.0 percent in excess of the from time to time per annum prime rate of interest for corporate borrowers as established by the Bank from time to time with accrued interest payable monthly (monthly, quarterly, at maturity or otherwise). Interest on this Note shall be calculated on the actual number of days on the basis of a 360 (360, 365/366 or otherwise) day year. This Note shall bear interest after maturity or demand if made prior thereto, at the rate of four percent over the stated rate but shall not exceed the maximum rate allowed by law, and if not paid at maturity, whether by acceleration or otherwise, interest shall be compounded annually. The undersigned jointly and severally agree that the Bank or any party to whom this Note is assigned (the "Holder") may, but is not obligated to, make future advances or readvances, at its sole discretion, upon oral or written instructions of any of the undersigned. The maximum amount that shall at any time be outstanding hereunder, exclusive of interest, shall be \$ 1,400,000.00 ("Maximum Amount"). Sums not to exceed the Maximum Amount shall be advanced or readvanced solely at the discretion of the Bank or Holder, and subject to such sole discretion as to advances and readvances, such amounts may be borrowed, repaid and reborrowed from time to time during the term hereof. All advances and readvances hereunder shall be endorsed on the reverse side hereof by the Bank or Holder, and between the undersigned and the Bank or Holder such endorsements and the balances derived from such endorsements shall be presumed to reflect the amounts advanced and repaid hereunder and the then outstanding and unpaid balance of the sums advanced or readvanced hereunder, exclusive of any accrued interest thereon.

In the event that this Note and all accrued interest thereon are not paid in full at maturity or upon demand if made prior thereto, the undersigned jointly and severally hereby agree that the Bank may, without notice to any of the undersigned, offset any and all funds of any of the undersigned held by the Bank against the indebtedness owing to the Bank by any of the undersigned hereunder. The undersigned further jointly and severally agree to pay on demand to Bank or Holder all costs and expenses incurred or paid in collecting or enforcing this Note, including reasonable attorney's fees of Bank or Holder.

Each of the undersigned hereby waives presentment, protest, demand, notice of dishonor or default and consents to any and all renewals, extensions and/or the release of any party directly or indirectly liable for the payment hereof or of any collateral or security held hereon, all without notice to and without affecting the liability of any of the undersigned. This Note shall be deemed to be entered into and is to be performed in the State of Missouri. Unless otherwise indicated here _____, all parties hereto agree that this Note shall be governed, construed and enforced according to the law of the State of Missouri, and further agree to submit to the jurisdiction of any Federal court and of the courts of any state named herein and for such purpose hereby designate _____ or if this blank space is not completed, the then Cashier or any Assistant Cashier of the Bank as their lawful agent to accept service of process.

STATE OF ILLINOIS
County of Franklin

MARK TWAIN MARINE INDUSTRIES, INC.

Document No. 84-1592
Filed for record

BY: Richard D. Mayotte
PRESIDENT

Due on demand and if no demand then

MAR 19 1984

Due June 1, 1990

at 1:10 o'clock P.M.
Fee paid \$ 5.00

CL-56

Bo. 11.00



RETURN TO:
SLT WAREHOUSE COMPANY
P. O. BOX 242
ST. LOUIS, MISSOURI 63166

SLT Warehouse Company

P. O. Box 242
ST. LOUIS, MISSOURI 63166

RETURN TO:
SLT WAREHOUSE COMPANY
P. O. BOX 242
ST. LOUIS, MISSOURI 63166



FIELD WAREHOUSE LEASE

This Lease, made and entered into on the 18th day of September, 1985, in the City of St. Louis, State of Missouri, by and between Mark Twain Marine Industries, Inc. (AN ILLINOIS CORPORATION)

P. O. Box 276, West Frankfort, Illinois 62896

hereinafter referred to as LESSOR, and the SLT WAREHOUSE COMPANY, a Corporation organized under the laws of the State of Missouri, hereinafter referred to as LESSEE:

WITNESSETH:

WHEREAS, the Lessee has been and now is engaged in the field warehouse business and in connection therewith issues warehouse receipts;

AND WHEREAS, Lessor is the owner of certain warehouse rooms, buildings and/or premises located in the City of West Frankfort, Illinois

County of Franklin, State of Illinois

and more particularly described as follows: That one story metal constructed building, more particularly described by the attached plat which is made a part hereof, and located on the following premises: Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principle Meridian; thence Westerly on the North line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of the beginning for this description; thence Southerly on a bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a bearing of South 89° 19' 10" East a distance of 600.00 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 10.88 feet to the point of Beginning, containing 18, 273 acres (795,972 square feet) more or less, excepting however, and reserving to the Grantor herein a tract of land 20 feet in width being 10 feet on each side of the following described line: Beginning at the Northwest Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the 3rd P.M.; thence Westerly on the North line of the said Northwest Quarter of the said Section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.75 feet to the point of beginning for the aforementioned line; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet. Franklin County, Illinois.

AND WHEREAS, the Lessee in connection with its field warehouse business desires to lease said warehouse buildings, rooms and/or premises:

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements herein contained, it is agreed by the parties as follows:

1. Lessor does hereby rent, demise, and lease to Lessee and Lessee does hereby hire and take from Lessor the above described warehouse buildings, rooms and/or premises on a tenancy from month-to-month and until such tenancy shall be terminated by a thirty (30) days written notice given by either party to the other, for the total rental of One Dollar (\$1.00), receipt of which is hereby acknowledged by the Lessor. However, it shall be the obligation of the Customer to provide the facilities and be responsible for the physical receiving, handling, weighing, storing, moving, and caring for or delivering the goods and merchandise stored or to be stored in or about the said premises.

TO HAVE AND TO HOLD said buildings, rooms and/or premises with all rights, privileges, easements and appurtenances thereunto attaching and belonging unto the Lessee, its successors and assigns.

2. Lessor agrees and it is specifically understood that in the event that Lessee shall have issued and there shall be outstanding warehouse receipts on any goods and merchandise stored in or on any of said warehouse buildings, rooms, and/or premises, then under no circumstances shall this lease be terminated as to all or any part of said warehouse buildings, rooms and/or premises until their shall be delivered to Lessee evidence of the release of all such Warehouse Receipts and until Lessor shall have paid to Lessee all charges due and owing for storage and labor and all expenses incurred by SLT and all other charges of SLT and all advances on the goods and merchandise covered by said warehouse receipts, or others that may have been issued.

3. Lessor agrees that Lessee, its agents, servants and employees shall have the right to pass through or over any other property of the Lessor for the purpose of entering and leaving said warehouse buildings, rooms and/or premises and agrees that Lessee shall have the right to place and maintain such signs or marks thereon and on the goods and merchandise stored therein as may be necessary to indicate the interest of Lessee in said warehouse buildings, rooms and/or premises and the property stored therein under the terms of this lease.

4. Lessor agrees that Lessee shall have the right at all times during the continuance of this lease to use any facilities and equipment of the Lessor for receiving, handling, weighing, storing, caring for, packing, shipping or delivering the goods and merchandise stored or to be stored in or on said warehouse buildings, rooms and/or premises.

5. Lessor agrees that Lessee as a warehouseman is to have the sole dominion and control of said warehouse buildings, rooms and/or premises and the goods and merchandise stored or to be stored therein or thereon, and as such warehouseman is to be entitled at all times to receive and store goods and merchandise in or on said leased buildings, rooms and/or premises and to issue warehouse receipts therefore pursuant to the provisions of the laws of the State in which the above warehouse is located. However, as indicated in the previous paragraph, Customer shall be responsible for all physical movement of inventory. The Lessee shall have the right to place such signs and locks about the premises as may be necessary, in the judgement of the Lessee, to establish a valid warehouse. This shall include the placement of a Lessee sign at the appropriate place on the Customer's premises.

6. It is expressly understood and agreed by and between Lessor and Lessee that Lessor shall not have access to the warehouse buildings, rooms and/or premises herein demised or any part thereof except with the permission of Lessee in writing, and that Lessor shall not exercise at any time any control of any sort over any of the goods and merchandise against which warehouse receipts have been or shall be issued by Lessee during the term of this lease, except for the physical movement of such goods and merchandise within the premises, or for deposit into the premises or removal from the premises according to the authorizations established by Lessee. However, Lessee may from time to time return to Lessor for Lessor's temporary use such portions of the demised premises not then required by Lessee. It is understood and agreed that the Lessee shall at all times have the right to occupy all of the demised premises, or such part thereof, as in the sole discretion of Lessee shall be required to meet Lessee's requirements.

7. Lessee agrees that it will not assign this lease or sublet any portion of the demised premises without the written consent of Lessor.

8. Lessee agrees not to use the demised warehouse buildings, rooms and/or premises for any purpose other than that of a field warehouse and for the transaction of such business as may be connected therewith or incident thereto.

9. Lessor agrees that Lessor will, at the cost and expense of Lessor, put and keep the demised buildings, rooms and/or premises, both inside and outside, in good tenantable order and repair during the whole of the term hereby demised, and agrees that Lessee shall not be required to make any repairs of any kind or nature to, in or about said demised buildings, rooms and/or premises.

10. Lessor agrees that under no circumstances shall Lessee be liable to Lessor for any loss of, damage to, or shortage of any goods and merchandise that may be stored in said warehouse, it being the intention of the parties that all loss of, damage to, or shortage of goods and merchandise that may be stored in said warehouse shall be borne by Lessor. Lessor agrees to indemnify and hold Lessee harmless from and against any and all claims, liabilities, loss, damage and expenses, including attorney's fees, which Lessee may pay, sustain or incur; (1) by reason of the failure of Lessor to perform and comply with the terms and conditions of this lease and the terms and conditions of the Collateral Control Agreement entered into by Lessor and Lessee; or (2) as a result of or in connection with the warehousing by Lessee of goods and merchandise deposited by or for Lessor and/or the issuance of warehouse receipts by Lessee covering said goods and merchandise; or (3) arising out of any loss of, damage to, or shortage of goods and merchandise stored in said warehouse; or (4) resulting from the occupancy of said warehouse by Lessee, and without limiting the foregoing, any and all claims, liability, loss, damage and expenses, including fees of attorneys, done or occasioned: (a) by or from plumbing, gas, water, steam, sprinklers or other pipes or sewerage or the bursting, leaking or running of any cistern, tank, washstand, water closet, or waste pipe in, above, upon or about said warehouse; (b) by water, snow or ice coming through the roof, skylight, trapdoor or otherwise; (c) from acts of neglect of co-tenants or other occupants of the same buildings, rooms and/or premises constituting said warehouse or any employees of the owners of said buildings, rooms and/or premises constituting said warehouse or by any owners or occupants of adjacent or contiguous property.

11. Lessor further agrees to pay for all gas, electricity, light, heat, power, steam, water, or other utilities supplied to or used in or upon said demised premises during the term of this tenancy.

12. Lessor agrees to put Lessee in possession of the demised premises and will permit Lessee to quietly hold and enjoy them during the term herein granted and in the event that Lessor is not the owner of the premises herein demised Lessor agrees to indemnify and hold Lessee harmless of and from any and all claims, liability, loss, damage and expenses, including fees of attorneys, which may be incurred by or arise out of or in connection with any subtenancy agreement, or any statutory, equitable, or other obligation or obligation assumed by Lessee in favor of the owner or owners of

the above described premises. Lessor warrants and guarantees the peaceful possession of the premises to Lessee. Lessor further agrees to execute or cause to be executed any further agreement or agreements that may be necessary to secure the convenient use and enjoyment of the buildings, rooms and/or premises hereby leased to Lessee.

13. Lessee shall have the right to remove all property from the buildings, rooms and/or premises herein demised to such other place or places as Lessee may deem proper or expedient in the event that Lessor violates any of the terms or conditions of this lease or shall in any manner interfere with or make difficult the duties of the agents, servants, or employees of Lessee, or becomes insolvent, or in the event that the premises herein demised shall become involved in any matter in litigation, or the Lessor or Lessee is ejected or ousted therefrom or proceedings are begun for that purpose; and in case of any such removal Lessor undertakes and agrees to pay to Lessee all expenses of such removal and of storing said property elsewhere until all warehouse receipts representing property so stored shall be returned to Lessee properly endorsed for delivery or until release orders have been signed by holders of all receipts and until such delivery shall have been completed and all payments herein referred to made. In the event that Lessee shall have removed all property from the demised premises in the exercise of its judgement as indicated above, SLT shall have no obligation to Customer for any expenses involved in the return of such inventory to Customer.

14. It is expressly agreed that this lease supersedes any and all leases heretofore made by the parties hereto which in any way affect the buildings, rooms and/or premises herein demised.

IN WITNESS WHEREOF, Lessor has executed or caused this lease to be executed by a partner thereunto duly authorized or caused this lease to be executed by an officer or officers thereunto duly authorized and Lessee has caused this lease to be executed by an officer thereunto duly authorized, the day and year herein first above written.

Thomas R. Rous
Witness
Thomas R. Rous
Witness

(AN ILLINOIS CORPORATION)
Mark Twain Marine Industries, Inc., Lessor.
By *Robert F. Smith*
Robert F. Smith-President

PROPRIETOR OR PARTNERSHIP ACKNOWLEDGEMENT

State of Illinois } SS. On this 18th day of September, 1985.
County of Franklin }
before me personally appeared _____

to me known to be the (person or persons) described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the _____ and State aforesaid, the day and year first above written.

My term expires: _____ Notary Public.

CORPORATE ACKNOWLEDGEMENT

State of Illinois } SS. On this 18th day of September, 1985.
County of Franklin }
before me appeared Robert F. Smith

to me personally known, who, being by me duly sworn, did say that he is the President of Mark Twain Marine Industries, Inc.

a Corporation of the State of Illinois, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said _____

acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the _____ and State aforesaid, the day and year first above written.

My term expires: June 18, 1989
State of Illinois } SS.
City of St. Louis }

WAREHOUSE COMPANY ACKNOWLEDGEMENT

SLT WAREHOUSE COMPANY
By W. H. Finkle, Jr.
Senior Vice President
On this 3rd day of October, 1985.

before me appeared W. H. Finkle, Jr.
to me personally known, who, being by me duly sworn, did say that he is the Vice President of the SLT WAREHOUSE COMPANY, a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and said _____

acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the _____ and State aforesaid, the day and year first above written.

My term expires: 3/28/86
This Lease prepared by Thomas R. Rous
SLT Warehouse Company

William Elstermeyer
Notary Public

WILLIAM ELSTERMEYER
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES MAR. 28, 1986
ST. CHARLES COUNTY

STATE OF ILLINOIS

County of Franklin

Document No. 85-9832

Filed for record

OCT 18 1985

3:25 P.M.
Fee paid \$ 7.00

Rare Atoll

SLT WAREHOUSE COMPANY

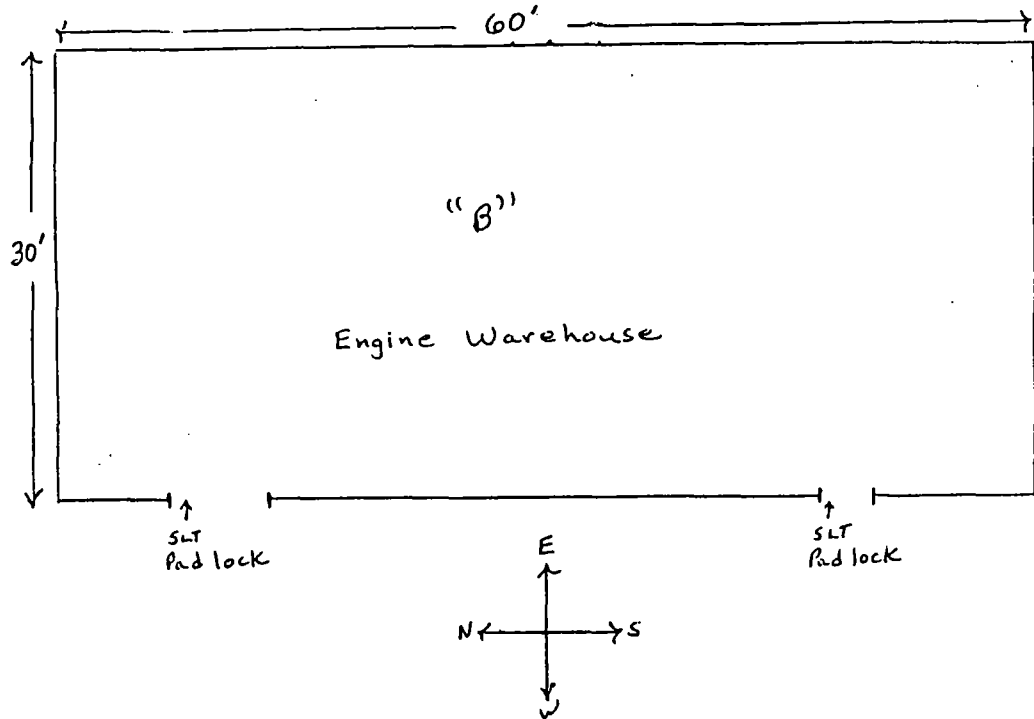
TO

LEASE

85-832

Franklin County Industrial Park

RETURN TO:
SLT WAREHOUSE COMPANY
P. O. BOX 242
ST. LOUIS, MISSOURI 63166



Main Plant "A"

"A" Mark Twain Marine Industries, Inc.
P.O. Box 276
West Frankfort, Illinois 62896

"B" SLT Warehouse Company
P.O. Box 276
West Frankfort, Illinois 62896

RETURN TO:
SLT WAREHOUSE COMPANY
P. O. BOX 242
ST. LOUIS, MISSOURI 63166

Warehouse # 5963
September 18, 1985

85-11152

ORDINANCE NO. ON-52

AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE
CITY OF WEST FRANKFORT, ILLINOIS

WHEREAS, a written petition signed by Mark Twain Industries, Inc., and M-T Acquisition Corporation, as the owner of record of the territory hereinafter described, has been filed with the City Clerk of the City of West Frankfort, Franklin County, Illinois, requesting that said territory be annexed to the City of West Frankfort, and;

WHEREAS, the said territory is not within the corporate limits of any municipality but is contiguous to the City of West Frankfort, and;

WHEREAS, there is no public library district or fire protection district in any part of the above described land entitled to notice as required by said statute, and;

WHEREAS, the petition documents and other necessary legal requirements are in full compliance with the statutes of the State of Illinois, specifically Chapter 24, paragraph 7-1-8, Illinois Revised Statutes, and;

WHEREAS, it is in the best interest of the City of West Frankfort that said territory be annexed thereto;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST FRANKFORT, ILLINOIS, AS FOLLOWS:

SECTION 1.

That the following described territory:

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description: thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a Distance of 1,315.74 feet; thence Westerly on a bearing of North 89 degrees 19 minutes 10 seconds West a distance of 600.00 feet; thence Northerly on a bearing of North 0 degrees 40 minutes 50 seconds East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89 degrees 19 minutes 10 seconds East a distance of 600.00 feet; Thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a distance of 10.88 feet to the Point of Beginning, containing 18.273 acres (795,972 Square Feet) more or less, EXCEPTING, however, and RESERVING to the Grantor herein a tract of land twenty feet (20') in width being ten feet (10') on each side of the following described line: Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of

the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of said Section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a distance of 240.74 feet to the Point of Beginning for the aforementioned line; thence Westerly on a bearing of North 89 degrees 19 minutes 10 seconds West a distance of 600.00 feet, said tract of land to be used for a drainage easement.

being indicated on a map of the annexed territory attached hereto and made a part of this Ordinance, is hereby annexed to the City of West Frankfort, Franklin County, Illinois.

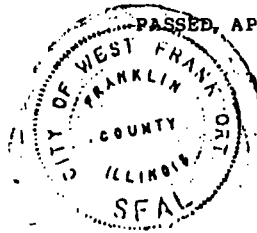
SECTION 2.

That the City Clerk is hereby directed to record with the Recorder of Deeds and to file with the County Clerk a certified copy of this Ordinance together with the accurate map of territory annexed appended to said Ordinance.

SECTION 3.

That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED, APPROVED AND RECORDED on this the 16 day of December, 1985.



APPROVED:

Orville Nolen
MAYOR

ATTEST:

Cynthia Martin
CITY CLERK

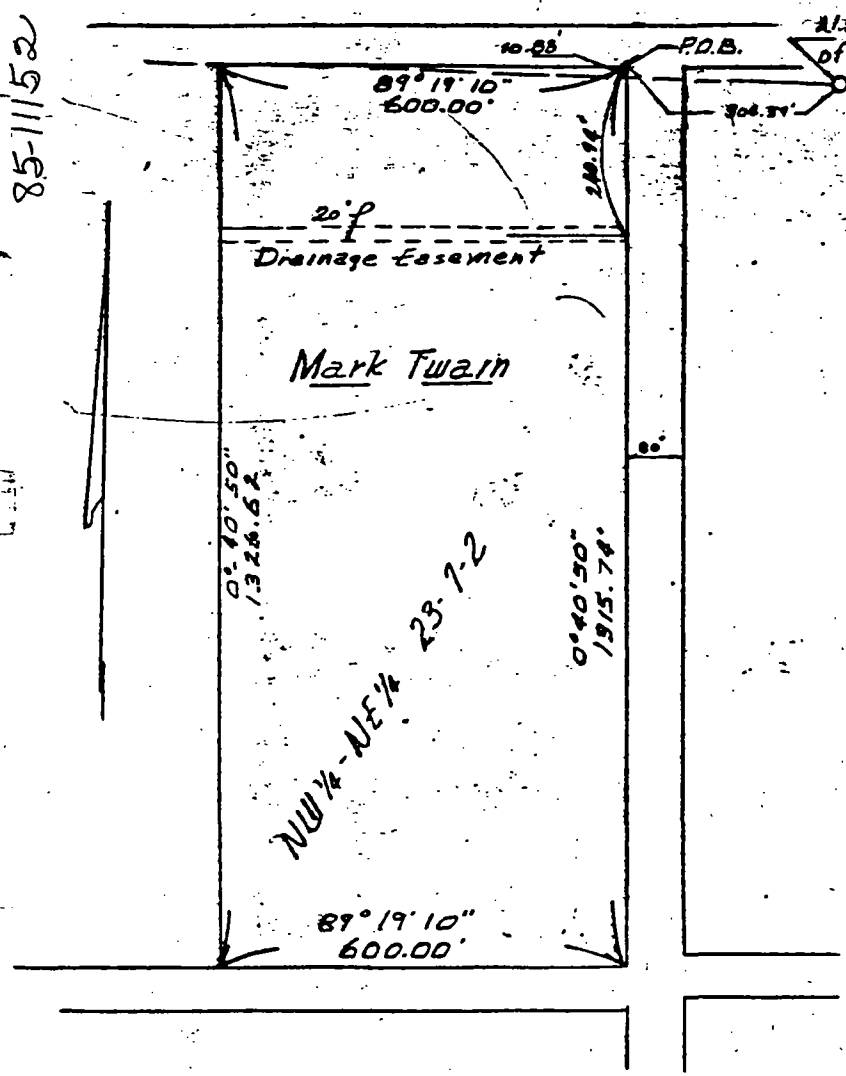
STATE OF ILLINOIS
County of Franklin
Document No. 85-11150
Filed for record

DEC 19 1985

at 9:25 A.M.
Fee paid \$...0.00

Rae A. Hill

85-11152



City of West Frankfort Annexation Plat Description

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian: thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description: thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a Distance of 1,315.74 Feet; thence Westerly on a bearing of North 89 degrees 19 minutes 10 seconds West a distance of 600.00 feet; thence Northerly on a bearing of North 0 degrees 40 minutes 50 seconds East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89 degrees 19 minutes 10 seconds East a distance of 600.00 feet; Thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a distance of 10.88 feet to the Point of Beginning, containing 18.273 acres (795,972 Square Feet) more or less, EXCEPTING, however, and RESERVING to the Grantor herein a tract of land twenty feet (20') in width being ten feet (10') on each side of the following described line: Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of said section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0 degrees 40 minutes 50 seconds West a distance of 240.74 feet to the Point of Beginning for the aforementioned line; thence Westerly on a bearing of North 89 degrees 19 minutes 10 seconds West a distance of 600.00 feet, said tract of land to be used for a drainage easement.

X

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
FRANKLIN COUNTY

LIS PENDENS NOTICE

To be filed in the office of the Recorder of Deeds

Marion Metal & Roofing Co.,
Inc., a corporation,
vs.
Mark Twain Marine Industries,
Inc., a corporation, et. al.,

No. 81-CII-34

I, the undersigned, do hereby certify that the above entitled cause was filed in the above Court on
June 30, 1981 for foreclosure

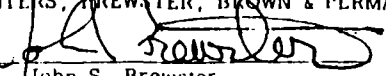
and is now pending in said court and that the property affected by said cause is described as follows:

(GIVE LEGAL DESCRIPTION)

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a Bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a Bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a Bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89° 19' 10" East a distance of 600.00 feet; Thence Southerly on a Bearing of South 0° 40' 50" West a distance of 10.88 feet to the Point of Beginning, containing 18.273 Acres (795,972 Square Feet) more or less, excepting, however, and reserving to the Grantor herein a tract of land twenty feet (20') in width being ten feet (10') on each side of the

in Franklin County, Illinois (cont. on back)

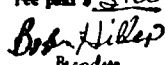
WINTERS, BREWSTER, BROWN & PERMAR

(Signature) BY: 
John S. Brewster
111 West Main Street

(Check one)
☐ Party to said Cause
☒ Attorney of Record

Type or Print above signature for clarification
Mark Twain, Illinois 62959
Address

Mail Receipt to:
John S. Brewster, Esq.
Winters, Brewster, Brown &
Name Permar
Address 111 West Main
Marion, Illinois 62959

Space for Recorder's Data Only
STATE OF ILLINOIS
County of Franklin
Document No. 81-3044
Filed for record
JUN 3 0 1981
at 3:00 o'clock PM
Fee paid \$ 5.00

Recorder

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
FRANKLIN COUNTY, ILLINOIS

MARION METAL & ROOFING CO.,
INC., a corporation,

Plaintiff,

-vs-

MARK TWAIN MARINE INDUSTRIES,
INC., a corporation; NORTH SIDE
WHOLESALE CO., a corporation;
FIRST COMMUNITY BANK OF WEST
FRANKFORT, ILLINOIS, a banking
corporation; THE UNITED STATES
OF AMERICA; JUDY BALDWIN, d/b/a
ABOVE ROOFING CO.; UNKNOWN
OWNERS and NON-RECORD CLAIMANTS,

Defendants.

CASE NO. 81-011-34 FILED

JUN 7 1982

Charles W. Williams
CIRCUIT CLERK, FRANKLIN COUNTY, ILL.

JUDGMENT

This cause coming on to be heard on the Motion for Summary Judgment filed by plaintiff, Marion Metal & Roofing Co., Inc., and on the Motion for Summary Judgment filed by North Side Wholesale Co. for the relief sought in his Answer and Additional Defenses filed on August 7, 1981; both Motions for Summary Judgment seeking foreclosure of mechanic's liens filed herein; all parties having been given notice of this hearing; Mark Twain Marine Industries, Inc., defendant, Marion Metal & Roofing Co., Inc., and North Side Wholesale Co. appearing by and through their respective attorneys, First Community Bank of West Frankfort, Illinois, defendant, and the United States of America, defendant, not appearing, and it appearing to the Court as follows:

1. Defendant, First Community Bank of West Frankfort, was served on July 2, 1981, and was found in default for failure to plead or otherwise answer by Order of this Court entered November 9, 1981.

2. Defendant, The United States of America, was served on July 8, 1981, and filed an Answer herein, in said Answer of the United States of America, said defendant either admitted the allegations or was without knowledge or information sufficient to form a belief as to the truth of the allegations contained in plaintiff's Complaint.

3. Defendant, Judy Baldwin, d/b/a Above Roofing Co., was served on July 28, 1982, and failed to appear or otherwise make an appearance herein; and pursuant to Order of this Court, was found in default and said Complaint as filed June 30, 1981, was confessed against her, said Order being entered November 8, 1981.

4. North Side Wholesale Co., a corporation, was served in this cause, and filed an Answer, Complaint, and Motion for Summary Judgment herein.

This matter now having been heard on said Motions for Summary Judgment and all other pleadings above mentioned and upon the evidence, proofs, and exhibits submitted in open Court, and the Court having considered such evidence, proof, and exhibits, and having considered the arguments of counsel and being thereby fully advised in the premises, finds as follows:

1. All the parties to this cause are properly before this Court and this Court has jurisdiction of the subject matter of this cause and each and every one of the parties thereto.

2. At all times relevant, Mark Twain Marine Industries, Inc., an Illinois corporation, was the owner of the following land in the County of Franklin, State of Illinois:

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a Bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a Bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a Bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89° 19' 10" East a distance of 600.00 feet; Thence Southerly on a Bearing of South 0° 40' 50" West a distance of 10.88 feet to the Point of Beginning, containing 18.273 Acres (795,972 Square Feet) more or less, excepting, however, and reserving to the Grantor herein a tract of land twenty feet (20') in width being ten feet (10') on each side of the following described line: Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of said Section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.74 feet to the Point of Beginning for the aforementioned line; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet, said tract of land to be used for a drainage easement, all situated in Franklin County, Illinois.

3. All material allegations of the Complaint of Marion Metal & Roofing Co., Inc. and the Answer and Additional Defense filed by North Side Wholesale Co. on August 7, 1981, both seeking damages, costs, and foreclosure of mechanic's liens, are true and proven as therein set forth.

4. First Community Bank of West Frankfort, Illinois, is the holder of a Mortgage dated November 19, 1968, and filed December 4, 1968, as Document No. 17-5389, between Mark Twain Marine Industries, Inc. and First Community Bank of West Frankfort, Illinois, to secure the principal indebtedness of Five Hundred Ninety-Six Thousand Four Hundred Ninety Dollars (\$596,490.00).

5. The United States of America is the holder of a certain Mortgage dated December 9, 1968, and filed December 12, 1968, as Document No. 17-5515, between Mark Twain Marine Industries, Inc. and the Small Business Administration, to secure the principle indebtedness of Two Million Thirty-Six Thousand Four Hundred Fifty Dollars (\$2,036,450.00).

6. Judy Baldwin, d/b/a Above Roofing Co., defendant, did, on July 14, 1980, enter into a certain written contract with defendant, Mark Twain Marine Industries, Inc., owner of said property, to provide services and materials in connection with the performance of certain roof construction and repair, including services incidental thereto, for and in said improvements.

7. Marion Metal & Roofing Co., Inc., from July 15, 1980, through August 1, 1980, made seven (7) written contracts with Judy Baldwin, d/b/a Above Roofing Co.; said contracts obligated plaintiff, Marion Metal & Roofing Co., Inc., to provide to Judy Baldwin, d/b/a Above Roofing Co., certain roofing materials which were to be used and incorporated into improvements of the aforesaid-described real estate. All materials and services

provided under said contracts executed during the period from July 15, 1980, through August 1, 1980, between Marion Metal & Roofing Co., Inc. and Judy Baldwin, d/b/a Above Roofing Co., were furnished, performed and delivered to and used in and about the improvement of the afore-described real estate; and the last of said work, materials and services were so furnished, performed and delivered on August 1, 1980.

All the work, materials and services furnished by plaintiff, Marion Metal & Roofing Co., Inc., were delivered to and accepted for said improvement and constituted a permanent and valuable improvement of the afore-described premises and enhanced the value thereof in the sum of Eleven Thousand Nine Hundred Four Dollars and Ninety-One Cents (\$11,904.91).

8. Judy Baldwin, d/b/a Above Roofing Co., was paid by defendant, Mark Twain Marine Industries, Inc., money due her pursuant to her contract with said defendant.

9. North Side Wholesale Co. did on and between February 21, 1980, and October 29, 1980, deliver certain building material to be used in connection with performance of certain roofing construction, repair, and improvements by Judy Baldwin, d/b/a Above Roofing Co., to the above-described real estate, including services incidental thereto. All materials sold and delivered to Judy Baldwin, d/b/a Above Roofing Co., pursuant to contract with North Side Wholesale Co. were furnished, performed, and delivered to and used in and about the improvement of the afore-described real estate; the last date of said work, materials, and services being so furnished and delivered on July

14, 1980. Said materials so delivered were incorporated into and became a part of the buildings and the real estate which constitute a permanent improvement and enhancement of the value thereof in the amount of Three Thousand Two Hundred Seventy-Two Dollars and Thirty-Seven Cents (\$3,272.37).

10. Although frequently requested to do so, defendant, Judy Baldwin, d/b/a Above Roofing Co., has failed and continues to fail to pay any of the amounts due and owing to North Side Wholesale Co. or plaintiff, Marion Metal & Roofing Co., Inc., and said failure constitutes wilful refusal and is unreasonable.

11. The priorities, lien rights, and amounts proven due plaintiff and defendants in mechanic's lien foreclosures are as set forth in Paragraph 11 through 15.

12. The lien right of the debt owing First Community Bank of West Frankfort, Illinois, evidenced by the Mortgage dated November 19, 1968, and the lien right of the debt owing The United States of America, evidenced by the Mortgage dated December 9, 1968, both described more particularly hereinabove, are superior to the lien right of plaintiff, Marion Metal & Roofing Co., Inc., and defendant, lien claimant, North Side Wholesale Co., with respect to that portion of the value of said property as of February 21, 1980, said date representing the date when the materials were delivered to said property pursuant to contract with defendant, lien claimant, North Side Wholesale Co; however, the lien right of the debt owing First Community Bank of West Frankfort, Illinois, evidenced by the Mortgage dated November 19, 1968, and the lien right of the debt owing The

United States of America, evidenced by the Mortgage dated December 9, 1968, both described more particularly hereinabove, are inferior to that of plaintiff, Marion Metal & Roofing Co., Inc. and defendant, lien claimant, North Side Wholesale Co., with respect to that portion of Marion Metal & Roofing Co., Inc.'s and North Side Wholesale Co.'s claims (\$11,904.91 and \$3,272.37 respectively), which claims represent the enhanced value of the property subsequent to February 21, 1980.

13. The lien right of plaintiff, Marion Metal & Roofing Co., Inc., and defendant, North Side Wholesale Co., are on a parity.

14. Plaintiff, Marion Metal & Roofing Co., Inc., and defendant, North Side Wholesale Co., both of whom seek foreclosure of mechanic's liens, perfected their liens as to the above-described realty and to all parties, in accord with Ill. Rev. Stat., Ch. 82, §1-39, and have proven the amounts due them. Said mechanic's lien claimants and the amounts proven due to them are:

(a) Marion Metal & Roofing Co., Inc.	\$11,904.91
North Side Wholesale Co.	<u>3,272.37</u>
TOTAL	\$15,177.28

(b) The lien rights securing such portions of the amounts due the parties named in 14 (a) above are established as having "enhanced" the real estate hereinbefore described.

15. The equities in this cause shall be adjusted among the parties hereto in accordance with the proceedings and specific findings.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

A. Within five (5) days from the date hereof, defendant, Mark Twain Marine Industries, Inc., a corporation, shall pay:

1. To Marion Metal & Roofing Co., Inc., a corporation, the sum of Eleven Thousand Nine Hundred Four Dollars and Ninety-One Cents (\$11,904.91).
2. To North Side Wholesale Co., the sum of Three Thousand Two Hundred Seventy-Two Dollars and Thirty-Seven Cents (\$3,272.37).

In addition to the foregoing sums, there shall also be paid to such parties lawful interest to be computed thereon from this date until paid and also the costs of this action to be taxed by the Clerk of this Court.

B. In default of such payment, the real estate and premises herein described or so much thereof as may be sufficient to realize the sums Ordered paid in Paragraph A hereof, together with principle and interest and costs of this action, including the commissions, disbursements, and fees on such sale, and which may be sold separately without material injury of the parties interested, shall be sold at public auction to the highest and best bidder for cash at the Franklin County Courthouse, Benton, Illinois, at a date and time to be later specified.

C. Said real estate and premises herein described shall be sold, or so much thereof as may be sufficient to realize the sums Ordered paid in Paragraph A hereof, shall be sold subject to the mortgage interest of the First Community Bank of West Frankfort,

Illinois, and The United States of America, more particularly set forth in Paragraphs 4, 5, and 12 herein.

D. The Sheriff of Franklin County, Illinois, shall execute this Decree; he shall give public notice of the time, place and terms of said sale by previously publishing the same at least once each week for three (3) successive weeks in a circular and secular newspaper of general circulation published in the County of Franklin and State of Illinois, the first publication thereof to be at least twenty-one (21) days prior to the date of sale. The plaintiff or any of the other parties to this cause may become the purchaser or purchasers at said sale. The Sheriff may, at any time, in his discretion and good reason, adjourn a sale so advertised by proclamation without further notice or advertising. Upon said sale being made, the Sheriff shall execute and deliver to the purchaser or purchasers a Certificate of Sale and Record and record a duplicate thereof as required by law. The Sheriff shall retain out of the proceeds of such sale all lawful fees and disbursements and shall pay all costs of the persons entitled to receive them. He shall then proceed as follows:

1. If the remainder of such proceeds shall be sufficient to pay the parties the amounts Ordered paid to them pursuant to Paragraph "A" hereof, he shall then pay such parties all sums to which they are then entitled and shall hold the surplus, subject to further Order of the Court herein.

2. At the time of making such payment, he shall take receipts from all such parties and file the same with his Report of Sale and Distribution into Court. In the Report of Sale, the Sheriff shall specify the amount of any deficiencies in payments to any of the parties hereto, resulting from the sale.

E. The owner of the equity of redemption is Mark Twain Marine Industries, Inc., a corporation, and said owner submitted to the jurisdiction of this Court.

F. All defendants, and each of them, and all persons claiming by, through or under them, since the commencement of this action, shall be forever barred and foreclosed from all claim and equity of redemption in, to, and of said real estate and premises, or any part thereof, if the same are not redeemed according to the law by defendants, or some of them, their heirs, representatives, or grantees, within the next six (6) months after the day of such sale, or by judgment creditors or their representatives or assigns, within six (6) months next the day of such sale.

G. At the expiration of said six (6) months next after the day of said sale, if said real estate and premises, or any portion thereof, be not redeemed as aforesaid, then upon the production to the then acting Sheriff, and filing in his office of the Certificate or Certificates of Purchase executed by the Sheriff, as aforesaid, to the purchaser or purchasers of said

property, or any portion thereof, by such purchaser or purchasers, his or their representatives or assigns, said Sheriff shall make, execute and deliver to such purchaser or his or their representatives or assigns, a good and sufficient conveyance or conveyances, in fee simple of said property, or such portion thereof as shall have been sold to such purchaser or purchasers respectively.

II. Upon the execution and delivery of the conveyance or conveyances as aforesaid, said purchaser or purchasers, his or their representatives or assigns, shall be let into possession of the premises or a portion thereof, so conveyed to him or them; and, upon the production of the Sheriff's Deed of conveyance and certified copy of the Order of this Court confirming the report of said sale, any of the parties to this cause who may be in possession of said premises, or any part thereof, and any person who has come into possession under them or either of them since the commencement of this action, shall surrender possession thereof to such purchaser or purchasers, their representatives, or assigns

I. The Court hereby retains jurisdiction of the subject matter of this cause and all parties hereto for the purposes of:

1. Setting the date and time of said sale.
2. Determining the character and amounts of any deficiency decrees to be entered in this cause as a result of said sale.
3. Enforcing and executing this Decree.

-12-

J. This is a final Order of this Court.

Date June 7, 1982.

ENTER:


PRESIDING JUDGE

Winters, Brewster, Brown and Permar
Attorneys at Law
111 West Main
Marion, Illinois 62959
Telephone: (618) 997-5611

STATE OF ILLINOIS,
APPELLATE COURT,
Fifth District } ss.

At a term of the APPELLATE COURT begun and held at Mt. Vernon, on the First Monday
the 3rd day of January in the year of our Lord one thousand nine hundred and
eighty-three within and for the
State of Illinois.

PRESENT:

Hon. CHARLES E. JONES, Justice.
Hon. GEORGE W. KASSERMAN, JR., Justice.
Hon. THOMAS M. WELCH, Justice.
WALTER T. SIMMONS, Clerk.

And afterwards, to wit: On the 5th day of April, in the
year of our Lord one thousand nine hundred and eighty-three
an order was made by said Court in words and figures following, to-wit:

MARION METAL & ROOFING CO., INC.,
a corporation,

Plaintiff-Appellee,

No. 82-419
Term, 1983

v.

MARK TWAIN MARINE INDUSTRIES,
INC., a corporation; NORTH SIDE
WHOLESALE CO., a corporation;
FIRST COMMUNITY BANK OF
WEST FRANKFORT, ILLINOIS, a
banking corporation; THE UNITED
STATES OF AMERICA: JUDY BALDWIN,
d/b/a ABOVE ROOFING CO;
UNKNOWN OWNERS & NON-RECORD
CLAIMANTS,

Defendant-Appellant.

Appeal from
Circuit Court
Franklin County.

No. 81-CH-34

FILED

MAY 18 1983

CHAS. E. JONES
CLERK OF COURT

Be it remembered that on this day there was filed in this office of the Clerk of this Court an Order in which the appeal is DISMISSED. And it is further considered by the Court, that the said Appellee recover of and from the said Appellants' costs, by them in this behalf expended, and that they have execution therefore.

I, WALTER T. SIMMONS, Clerk of the Appellate Court, within and for the Fifth District of the State of Illinois, DO HEREBY CERTIFY, that the foregoing is a true copy of the Final Order of said Appellate Court, in the above entitled cause of record in my office.

IN TESTIMONY WHEREOF I have set my hand and affixed the seal of the said Court at Mt. Vernon, this 17th day of May in the year of our LORD one thousand nine hundred and eighty-three

Walter T. Simmons
Clerk of the Appellate Court.

Document No. _____ filed for Record in Recorder's office of _____ County, Illinois

at _____ o'clock _____ M.

Recorder of Deeds.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

MARLBORO MANUFACTURING, INC.

Plaintiffs

vs.

Case No. 85-SC-951

MARK TWAIN MARINE, INC.

Defendants

MEMORANDUM OF JUDGMENT

On April 26, 1985, a judgment was rendered herein

in the amount of \$ 1,757.02 and costs of suit

In favor of Marlboro Mfg., Inc.

and against Mark Twain Marine, Inc.

STATE OF ILLINOIS
County of Franklin

Document No. 85-5265
Filed for record

MAY 8 1985

9:05 o'clock P.M.
Fee paid \$5.80

Go New
Recorder

Dated April 26, 1985

Judge of said Court

Name JOEL A. KUNTIN
Attorney for Plaintiff
Address 412 Missouri Avenue
City East St. Louis, IL 62201
Telephone (618) 274-0436

After recording mail to: Name ABOVE
Address _____

Document No. _____ filed for Record in Recorder's office of FRANKLIN County, Illinois
_____ at _____ o'clock _____ M.

Recorder of Deeds.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

MANSFIELD PLUMBING PRODUCTS, ETC.,

Plaintiffs

vs.

MARK TWAIN MARINE INDUSTRIES,

Defendants

Case No. 85-LM-2775

MEMORANDUM OF JUDGMENT

On May 31, 19 85, a judgment was rendered herein

in the amount of \$ 4,987.72 and costs of suit

In favor of MANSFIELD PLUMBING PRODUCTS, ETC.,

STATE OF ILLINOIS
County of Franklin

Document No. 85-6055
Filed for record

JUN 13 1985

and against MARK TWAIN MARINE INDUSTRIES.

at 9:50 o'clock P.M.
Fee paid \$ 6.00

Dave Dobble

Dated _____, 19 85

[Signature]
Judge of said Court

Name JOEL A. KININ
Attorney for Plaintiff
Address 412 Missouri Avenue
City East St. Louis, IL 62201
Telephone (618) 274-0434

After recording mail to: Name A B O V E
Address _____

Document No. _____ filed for Record in Recorder's office of FRANKLIN County, Illinois

_____ at _____ o'clock _____ M.

Recorder of Deeds.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

SHIELDS-RUBBER OF BALTIMORE, INC.,

Plaintiffs

vs.

MARK TWAIN MARINE INDUSTRIES,
INC.,

Defendants

Case No. 85-LM-2951

MEMORANDUM OF JUDGMENT

On AUGUST 26, 1985, a judgment was rendered herein

in the amount of \$ 9,260.28 and costs of suit

in favor of SHIELDS-RUBBER OF BALTIMORE, INC.,

and against MARK TWAIN MARINE INDUSTRIES, INC.

STATE OF ILLINOIS
County of Franklin

Document No. 85-7948
Filed for record

SEP 3 1985

at 10:35 o'clock P. M.
Fee paid \$ 6.00

Base Bill

Dated August 26, 19 85

[Signature]
Judge of said Court

Name JOEL A. KUNTIN
Attorney for Plaintiff
Address 412 Missouri Avenue
City East St. Louis, IL 62201
Telephone (618) 274-0434

After recording mail to: Name A B O V E
Address _____

Document No. _____ filed for Record in Recorder's office of FRANKLIN County, Illinois

at _____ o'clock _____ M.

Recorder of Deeds.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

UNITED INDUSTRIES, INC.,

Plaintiffs

vs.

MARK TWAIN MARINE INDUSTRIES, INC.,

Defendants

Case No. 85-LM-2941

MEMORANDUM OF JUDGMENT

On AUGUST 26, 19 85, a judgment was rendered herein

in the amount of \$ \$10,440.00 and costs of suit

in favor of UNITED INDUSTRIES, INC.

and against MARK TWAIN MARINE INDUSTRIES, INC.

Dated August 26, 19 85

[Signature]
Judge of said Court

Name JOEL A. KUNIN
Attorney for Plaintiff
Address 412 Missouri Avenue
City East St. Louis, IL 62201
Telephone (618) 274-0434

STATE OF ILLINOIS
County of Franklin
Document No. 85-1944
Filed for record

SEP 3 1985

After recording mail to: Name A B O V E

Address _____

D.35
paid \$ 6.00

Rice B. Hill

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
FRANKLIN COUNTY

MEMORANDUM OF JUDGMENT

Judgment rendered AGAINST:

NAME OF PARTY Mark Twain Marine Industries, Inc.
STREET ADDRESS West Frankfort Industrial Park
CITY and STATE West Frankfort, Illinois 62896

Judgment ☒ rendered (Check one) DATE October 28, 1985 Amount \$14,681.89
☐ revlved (no. day year)

In favor of:

NAME OF PARTY Riberglass, Inc., A Corporation
STREET ADDRESS P. O. Box 40790
CITY and STATE Garland, Texas 75040

Court Case Number 85-LM-102 Execution issued date _____

SIGNED _____
(Judge - Associate Judge)

DIVISION _____

STATE OF ILLINOIS
County of Franklin
Document No. 85-10037
Filed for record

OCT 29 1985

Mail Receipt to:

Name _____

Address _____

Space for Recorder's Data only
at 10:00 clock AM.
Fee paid \$6.00

Bar Atill

MEMORANDUM OF JUDGMENT
CIRCUIT COURT OF FRANKLIN COUNTY
TO
RECORDER OF DEEDS, FRANKLIN COUNTY

Judgment rendered AGAINST---Mark Twain Industries, West Frankfort,
IL 62896

Judgment: X rendered
 revived

DATE 11-5-85 AMOUNT \$593.27 + costs

In favor of---Southard Oil Company, Inc., An Illinois Corporation

Court Case Number: 85-86-440

Execution issued date: 11-5-85

SIGNED: *[Signature]*

X JUDGE

DIVISION

MAGISTRATE

STATE OF ILLINOIS
County of Franklin
Document No. 85-10198
Filed for record

NOV 05 1985

2:20 clock P.M.
Fee paid \$6.00

Barb Dobill

Prepared by:

E. Kyle Vantrease
Attorney for Plaintiff
402 E. Main Street
P.O. BOX 426
West Frankfort, IL 62896

111-835 0162

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT
COURT NO. 13

TITLE TO REAL ESTATE INVOLVED

CENTERRE BANK OF KANSAS CITY, N.A.,)

Plaintiff,)

v.)

MARK TWAIN MARINE, INC., et al.,)

Defendants.)

Case No. 123619

FILED IN JUDGE'S OFFICE
County of Franklin
Document No. 85-1162
Filed for record

DEC 13 1985

9:55 P.M.
at 9:55 o'clock
Fee paid \$... 9.00

JOURNAL ENTRY OF JUDGMENT

Rae Dobill

Set
The above-captioned case came on for trial to the Court on September 19 and 20, 1985. The Plaintiff, Centerre Bank of Kansas City, N.A. ("Centerre") appeared in person and by and through its attorneys Douglas Lancaster and J. Stewart McWilliams of Linde Thomson Fairchild Langworthy Kohn & Van Dyke, P.C.; the Defendant Mark Twain Marine, Inc., appeared in person and by and through its attorneys Steve R. Jarrett and James C. Jarrett; the Defendants Lee S. Siebert and Jane Siebert appeared in person and by and through their attorneys David W. Howard and Leonard Rose of Ryder Rose Frensley and Shapiro and Robert Anderson of Payne & Jones, Chartered.

The Court after hearing the testimony and reviewing the documents admitted in to evidence together with the stipulated and undisputed facts set forth in the pre-trial order filed herein makes the following findings of fact:

1. That plaintiff, Centerre Bank of Kansas City, N.A., loaned Mark Twain Marine, Inc. ("MTM"), the principal sum of \$400,000.00 and to evidence its indebtedness to Centerre, MTM executed a promissory note in favor of Centerre.

2. That the MTM loan was renewed from time to time, extending the maturity date. That the January 26, 1983 renewal note of MTM stated a due date of April 27, 1983.

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3. That subsequent to January 26, 1983 Centerre, through its officers, advised the President of MTM, Lee S. Siebert, that they desired collateral or a guarantee to further extend the MTM line of credit.

4. That Lee S. Siebert was President, Chairman of the Board and Principal Stockholder of MTM at all times prior to July 12, 1983.

5. On or about June 23, 1983, William R. McDaniel, an officer of Centerre, personally delivered to Lee Siebert a renewal note and personal guaranty of MTM's indebtedness to Centerre and again advised Siebert that the line of credit would not be renewed or extended beyond April 27, 1983 without his personal guaranty.

6. That without notice to or the knowledge of Centerre, Lee S. Siebert entered into agreements with MTM and third parties to sell all of his 1,644,000 shares of MTM stock, approximately one-half to the third party individuals with the remaining one-half of his stock being redeemed by MTM.

7. That defendant Lee Siebert in offering his stock for sale to third parties in June and July of 1983 warranted and represented to the purchasers of said stock that the Centerre loan in the amount of \$400,000.00 had been extended and had a maturity date of August 25, 1983.

8. That the MTM renewal note dated April 27, 1983 and personal guaranty agreement dated April 27, 1983 had been executed by Lee Siebert not later than July 12, 1983.

9. That as a part of the stock transaction which closed on July 12, 1983 the manufacturing facility owned by MTM and located in Stanley, Kansas was conveyed to Lee S. Siebert personally. That said manufacturing facility located at Stanley, Kansas had been appraised in the Summer of 1983 of \$775,000.00.

10. That in addition to the manufacturing facility located at Stanley, Kansas, MTM conveyed to Lee Siebert in exchange for the redemption of 800,000 shares of his common stock of MTM a certain gas well, equipment and mobile home. As a part of that

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same transaction, Siebert delivered to MTM his personal promissory note in the amount of \$490,000.00 and a mortgage on the Stanley, Kansas manufacturing facility to secure repayment of the \$490,000.00 Note (Siebert Note).

11. That as a part of July 12, 1983 stock transactions, MTM entered into a lease agreement with Lee S. Siebert and Jane Siebert, thereby MTM leased the Stanley, Kansas manufacturing facility from Sieberts.

12. That Paragraph 11, Page 6 of the lease between Siebert and MTM (Plaintiff's Trial Exhibit (o)) contains the following provisions:

Lessee (MTM) is entitled to a credit on and a set-off against Basic Rent under this Lease and is entitled to postpone payment of this Basic Rent under this Lease upon default of Lessor (Siebert) under a certain Promissory Note of Lessor of even date herewith in the principal amount of \$490,000.00. If Lessee shall have notified Lessor of a credit, set-off or postponement under this Lease, and refuses or fails to pay Basic Rent in the aggregate amount necessary to cover such credit or set-off, or postpone payment of Basic Rent, then none of such events shall be considered a default under this Lease.

13. That as a part of the stock transactions entered into on July 12, 1983, MTM entered into a "Consulting Agreement" with Page Marina, Inc., a Missouri Corporation, and as to certain provisions, Lee S. Siebert individually.

14. That Paragraph 3 of the Consulting Agreement (Plaintiff's Trial Exhibit (o)) requires MTM to pay Page Marina, Inc. a consulting fee of \$4,583.33 per month, payable on the last day of each month through June 30, 1987, and lesser amounts on a monthly basis thereafter through June 30, 1989. Paragraph 6 of the Consulting Agreement does not require payments to either Siebert or Page Marina.

15. That pursuant to the terms of the Agreement for Sale and Purchase of Stock dated July 12, 1983, Lewis A. Bracker and others as buyers paid Lee S. Siebert \$300,000.00 for 844,000 shares of Siebert's stock in MTM. That Paragraph 2.11 of the

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Agreement for Sale and Purchase of Stock dated July 12, 1983

(Plaintiff's Trial Exhibit (w)) provides in part,

Contracts. Seller has delivered to Buyers true copies of all contracts (except EDA loan and Bank of St. Louis loan) to which corporation is a party (Schedule 2.11)....

16. That Schedule 2.11 attached to Plaintiff's Trial Exhibit (w) had attached copies of the Centerre renewal note dated April 27, 1983 extending the maturity of the Centerre Loan to August 25, 1983 and a signed copy of Lee S. Siebert's personal guaranty of MTM's loan from Centerre.

17. That at the time of the July 12, 1983 Stock Redemption and Stock Purchase Agreements entered into with defendant Lee S. Siebert, MTM also conveyed to Siebert all of the outstanding stock of Page Marina, Inc., a Missouri corporation, which owns and operates a boat marina on the Lake of the Ozarks. This transaction is not mentioned in either the stock purchase or stock redemption agreements dated July 12, 1983 and it is not clear what if any consideration Lee S. Siebert paid MTM for the conveyance of these assets to him personally.

18. On July 13, 1983 Centerre Bank called due and demanded full payment from MTM of its \$400,000.00 loan which had been in default and past due since April 27, 1983, citing the failure of Lee Siebert to deliver to Centerre his personal guaranty agreement.

19. That upon receiving William R. McDaniel's July 13, 1983 letter calling the MTM loan due and payable in full, Lewis Bracker immediately made inquiry of the old comptroller, Charles Taylor, and treasurer, Gertrude Gandal, as to the status of the Centerre loan.

20. That Gertrude Gandal and Charles Taylor both advised Bracker that the Centerre \$400,000.00 loan had been extended and was not in fact due and payable until August 25, 1983.

21. That sometime after Lewis Bracker had received William R. McDaniel's demand letter dated July 13, 1983, Gertrude Gandal, the personal secretary of Lee Siebert and Treasurer of MTM,

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directed MTM's controller, Charles Taylor, to hand deliver an envelope containing documents to Bill McDaniel at the Centerre Bank. That envelope, however, was left with McDaniel's secretary and not hand delivered to McDaniel.

22. That on August 10, 1983 an unidentified employee of Centerre notified Bill McDaniel that the MTM renewal note and personal guaranty agreement which McDaniel had delivered to Siebert on June 23, 1983 had been received by the Bank and had been executed by Siebert.

23. That on August 10, 1983 upon being notified that the personal guaranty of Lee Siebert had been received by Centerre, William R. McDaniel wrote a letter to the President of MTM advising that Centerre was rescinding the demand for payment and that the maturity of the MTM note had in fact now been extended to August 25, 1983.

24. That MTM defaulted in the repayment of its \$400,000.00 loan to Centerre which matured and was due and payable in full on August 25, 1983.

25. That in November of 1983 Centerre commenced an action in the District Court of Johnson County, Kansas to collect its loan from MTM, which case is identified as Johnson County District Court Case No. 126242.

26. That on March 8, 1984 MTM entered into an "Extension of Time and Modification of Note Agreement" with Centerre, which agreement in pertinent part required MTM to pay all accrued interest on the loan; make a principal reduction in the amount of \$66,617.00; and an assign to Centerre the "Siebert Note and Mortgage" as security for the repayment of the balance of the loan; that said agreements were executed by the then President of MTM, Roland Mayotte, and defendant Siebert consented to the Assignment of the "Siebert Note and Mortgage" to Centerre as security for the payment of the MTM loan. In consideration, Centerre agreed to a dismissal without prejudice of Case No. 126242 and an extension of the maturity of the balance of the MTM loan until June 30, 1984.

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27. That by the terms and conditions of the Agreements entered into between MTM and Centerre on March 8, 1984, all payments due from Siebert to MTM by the terms of the "Siebert Note" were to be paid directly to Centerre.

28. That no payments have been remitted by Siebert or MTM to Centerre since March 8, 1984 (except interest payments remitted by MTM in April, May and June of 1984) and MTM and Siebert have defaulted in the repayment of both the MTM and the Siebert note.

29. That under the terms and conditions of the personal guaranty agreement of Lee S. Siebert in favor of Centerre Bank, guaranteeing the indebtedness of MTM to Centerre and dated April 27, 1983.

Now, for value received, and in consideration of the sum of One Dollar paid to the undersigned, the receipt of which is hereby acknowledged, and of other valuable considerations to them moving, the undersigned jointly and severally for themselves, their heirs, executors and administrators, hereby guarantee to said Bank, its successors and assigns, the prompt payment as they may severally mature of any or all loans made, or which may be made, to said Borrower by said Bank, as well as any and all renewals thereof and any and all indebtedness that is now or at any time hereafter may be or become owing from said Borrower to said Bank not exceeding in the aggregate unlimited....

This instrument is intended to be and shall be a continuing guaranty and agreement and shall apply to and cover all loans, discounts or renewals thereof made by said Bank and all indebtedness of any kind due to said Bank from said Borrower prior to notice in writing given to the Cashier of said Bank by the undersigned that they will not be liable upon any further loans or discounts accepted or indebtedness incurred after the receipt of such written notice....

Notice to the undersigned guarantors of the acceptance of this guaranty and of the making or renewing of any loan or paper is hereby expressly waived by the undersigned

As collateral security for the payment of the indebtedness guaranteed and any renewal or extension thereof, and for the payment of any other liabilities, present or future, absolute or contingent, direct or indirect, of the undersigned to the Bank, the undersigned hereby assigns, pledges and delivers to said Bank any notes, bonds, ...

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mortgages ... or other property which the
Bank may now or hereafter have in its possession.

And the undersigned agrees that

- 1)
- 2)
- 3) All collateral now or hereafter received by the Bank as security for any liability of the undersigned may also be held by said Bank for any other liability of the undersigned to the Bank, whether direct or contingent

30. That on July 11, 1984, without the knowledge or consent of Centerre, MTM entered into an agreement with Lee S. Siebert, Jane Siebert and Page Marina, Inc., which agreement purports to set off certain amounts due between the parties to that agreement, including \$62,309.09 of interest and principal payments previously assigned by MTM and Siebert to Centerre due under the terms of the "Siebert Note" through October 31, 1984.

31. That on the 8th day of March, 1985, defendants Lee and Jane Siebert commenced an action in the District Court of Johnson County, Kansas to terminate the lease of MTM on the manufacturing facility located in Stanley, Kansas and obtained an order of the District Court of Johnson County, Kansas, regaining possession of said manufacturing facility, which facility has been in the possession of defendants Lee and Jane Siebert since the date of the Court order entered therein.

32. That defendant Lee Siebert has made no effort to re-lease or utilize the facility since re-taking the same.

33. That the claims of Lee Siebert and Page Marina, Inc. against MTM which Siebert has asserted as a set-off against the payments due under the Siebert Note are unliquidated and disputed except certain lease payments due and unpaid from May, 1984 to January, 1985.

34. That Page Marina, Inc. is indebted to MTM in the approximate amount of \$250,000.00 on an open account for boats purchased by Page Marina, Inc. from MTM.

35. That neither Page Marina, Inc., Lee Siebert or MTM have attempted in this action or any other action to adjudicate

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various claims and counter-claims between themselves to liquidate those claims to any amount certain.

36. That all of the claims asserted by Defendant Lee Siebert as a set-off against the payments due under the terms of the "Siebert Note" accrued after the assignment of the "Siebert Note" to Centerre and after the commencement of this action.

37. That Defendant Lee Siebert has defaulted in principal and interest payments due under the terms of the "Siebert Note" since its assignment to Centerre totalling \$184,075.76.

38. As of the date the \$490,000.00 "Siebert Note" was assigned to plaintiff, MTM was current on all of its payments due to Lee S. Siebert (under the terms of the July 12, 1983 lease) and all payments due Page Marina, Inc. (pursuant to Paragraph 3 of the July 12, 1983 "Consulting Agreement").

39. As of the date of the transfer of the "Siebert Note" to plaintiff in March of 1984, Page Marina, Inc. was indebted to MTM on an open account in the approximate amount of \$250,000.00.

40. Defendant Lee S. Siebert defaulted on the payment of all interest payments due pursuant to the terms of the "Siebert Note" (Trial Exhibit (r)) from April, 1984 through January 12, 1985 in the total amount of \$45,554.70 (10 months @ \$4,555.47 per month) and all principal payments in the total amount of \$61,249.41 (3 quarterly payments at \$20,614.47). Principal and interest payments defaulted during the period from April, 1984 through January, 1985 totaled \$106,804.11.

41. Plaintiff declared the "Siebert Note" in default and made demand for full payment of all principal and interest in late January, 1985 and filed suit on said note and to foreclose the mortgage securing that note on February 12, 1985.

42. The payments due and unpaid from MTM to Lee S. Siebert and Jane L. Siebert under the terms of the July 12, 1983 Lease from May, 1984 through January, 1985 accrued in the total sum of \$85,752.04.

43. The principal balance of the "Siebert Note" had been reduced from \$490,000.00 to \$428,750.02 by April, 1984. (The

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terms of the "Siebert Note" required quarterly principal payments of \$20,416.60 on the 12th day of October, January, April and July of each year, and according to the testimony of Lee Siebert, which was undisputed, the October, 1983, January, 1984 and April, 1984 principal payments were paid.)

44. Interest was accruing on the "Siebert Note" at the rate of \$4,555.47 per month after the April 12, 1984 principal payment was made by Siebert. (\$428,750.02 x 12.75% divided by 12; Also see Page 3 of Exhibit (hh))

45. Interest has accrued from April, 1984 to October, 1985 in the total amount of \$86,553.93. (19 months @ \$4,555.47 per month)

46. The total principal and interest due on the "Siebert Note" as of October, 1985 is in the sum of \$515,303.95 (\$428,750.02 plus \$86,553.93).

47. That the defendant Lee S. Siebert failed to provide plaintiff with proof that plaintiff's insurable interest in the property and improvements encumbered by the mortgage securing the "Siebert Note" was insured and plaintiff has expended the sum of \$8,000.00 for an insurance policy to insure its interest in the subject premises against casualty loss. The terms of the mortgage (Trial Exhibit (gg)) require the mortgagor to maintain insurance protecting the mortgagee's insurable interest in the property.

48. The Court adopts by reference all stipulated and undisputed facts set forth in Section VI of the Pre-Trial Order filed herein not otherwise designated as suggested findings of fact by plaintiff.

49. That both MTM and defendant Siebert are indebted to plaintiff in the sum of \$377,213.66 plus interest accruing at the rate of \$125.25 per day from and after June 1985 plus an undetermined amount to reimburse plaintiff for casualty insurance insuring the subject property situated in Stanley, Kansas.

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50. That there is no contractual provision in the "Siebert Note" which allows the maker (Siebert) to set-off against payments due under the terms of said note except lease payments due Siebert and consulting payments due Page Marina, Inc., pursuant to Paragraph 3 of the July 12, 1983 "Consulting Agreement".

CONCLUSIONS OF LAW

The Court after considering the briefs and memoranda submitted by all parties determines the following conclusions of law:

(a) Centerre's agreement to extend the maturity of the MTM \$400,000.00 loan from April 27, 1983 to August 25, 1983 is adequate consideration to support the personal guaranty of Lee S. Siebert guaranteeing the \$400,000.00 indebtedness of MTM to Centerre.

(b) Under the facts of this case, Centerre's demand upon Lee Siebert for a personal guaranty of the MTM loan as a condition to the extension of the maturity of that loan and the subsequent delivery of an executed personal guaranty to Centerre constitutes an offer and acceptance which may not subsequently be revoked by the guarantor by alleging that he does not now recall executing the guaranty or causing it to be delivered to plaintiff in light of plaintiff's reliance upon that guaranty.

(c) If a written instrument, on its face, expresses a contractual obligation, one of the parties should not be permitted to avoid the contract on the ground that it was never his intent to be bound by the contract.

(d) The modification and extension agreement entered into between MTM and Centerre in March of 1984 does not release Lee Siebert from his personal guaranty agreement for the reason that by the terms of the guaranty agreement, the guarantor expressly consented to extensions of the maturity of any indebtedness of MTM and Lee Siebert has never notified the Bank that he would not be bound by the terms of the guaranty.

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(e) Defendant Lee Siebert's silence and inaction subsequent to his discovery in November of 1983 that a personal guaranty existed estops him from now denying the validity of that guaranty agreement.

(f) A unilateral mistake on the part of a guarantor in executing a guaranty agreement is not legal grounds to release that guarantor from his guaranty once the creditor has acted in reliance on that guaranty.

(g) Set-off is an affirmative defense and the party asserting set-off must sustain the burden of proof by a preponderance of the evidence.

(h) The July 11, 1984 agreement between MTM, Sieberts and Page Marina, Inc. (Trial Exhibit (hh)) purporting to set-off certain debts of MTM against payments due by Siebert pursuant to the terms of the \$490,000.00 "Siebert Note", which had been assigned to plaintiff in March of 1984, was not consented to by plaintiff and is not enforceable or binding upon the plaintiff to the holder of the "Siebert Note".

(i) The set-off claim asserted by defendant Lee Siebert for consulting fees due Page Marina, Inc. pursuant to Paragraph 3 of the July 12, 1983 "Consulting Agreement" (Trial Exhibit (s)) is subject to a counter set-off in excess of the amount claimed by virtue of Page Marina, Inc.'s \$250,000.00 indebtedness to MTM.

(j) That except for equitable considerations, defendant Lee Siebert on the basis of the contractual set-off provisions in the "Siebert Note", would be entitled to set-off against liability to plaintiff undisputed and liquidated lease payments unpaid by MTM for the period from May, 1984 through January, 1985 in the total amount of \$85,752.04 as credit against the judgment against Siebert and in favor of plaintiff, entitling plaintiff to a net judgment against defendant Lee Siebert in the sum of \$437,551.91 with interest accruing thereon at the contract rate (12.75%) from and after the date of entry of judgment.

(k) Although plaintiff as the holder of a non-negotiable promissory note is not a "Holder in Due Course". under the facts

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of this case defendant Lee S. Siebert as maker is estopped from asserting any set-off claims against plaintiff except liquidated and undisputed set-off claims for unpaid lease payments totalling \$85,752.04.

(l) Under the facts of this case it would be inequitable to allow defendant Lee Siebert and Page Marina, Inc. to set-off against payments due under the Siebert Note, claims between themselves accruing subsequent to the assignment and pledge of that note and mortgage to Centerre.

(m) That the defendant Lee S. Siebert has failed to sustain his burden of proof on his claims for set-off against payments due pursuant to the terms of the "Siebert Note" except as to that claim for lease payments due from MTM to Siebert for the period from May, 1984 through January, 1985, totalling \$85,752.04.

(n) By the express provisions of the April 27, 1983 Guaranty Agreement, all collateral held by Centerre to secure any indebtedness of Lee S. Siebert to Centerre, also was cross-collateralized as collateral for all other indebtedness of Siebert to Centerre including the personal guaranty of the MTM loan. Accordingly, the mortgage securing the Siebert Note also served as collateral for Siebert's guaranty of the MTM loan.

(o) That plaintiff is entitled to judgment against defendant Lee Siebert for default in the repayment of the "Siebert Note" in the amount of \$437,551.91 plus interest accruing thereon at the contract rate (12.75%) and an order foreclosing the mortgage securing said "Siebert Note."

(p) That defendant Lee S. Siebert as guarantor of the indebtedness of MTM to Centerre is entitled to indemnification from MTM to the extent of his liability to Centerre.

(q) That defendant Lee Siebert is not entitled to set-off unliquidated claims held by Siebert under the July 12, 1983 lease with MTM or unliquidated claims of Page Marina, Inc. under the July 12, 1983 Consulting Agreement as those claims are disputed and subject to counter set-offs.

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IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED plaintiff Centerre Bank of Kansas City, N.A. be and hereby is granted judgment against the defendant Lee S. Siebert the sum of \$385,213.66 with interest accruing at the rate of \$125.52 per day from and after June 2, 1985, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: That plaintiff Centerre Bank of Kansas City, N.A. have and recover judgment herein against the defendants Lee S. Siebert and Jane Siebert in rem in the sum of \$437,551.91 plus interest accruing thereon at the contract rate (12.75%) from and after the date of entry of judgment, costs of this suit accrued and accruing, and that the mortgage held by the plaintiff as described and set forth in its petition be and hereby is foreclosed and adjudged and decreed to be a first lien upon the following described real property subject only to taxes and costs and that the same be foreclosed as security for the money judgment herein rendered in its favor.

All of Lot 16, FRYE INDUSTRIAL PARK, a
Subdivision in Johnson County, Kansas,
according to the recorded plat thereof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if said mortgage and lien held by plaintiff is not paid within ten (10) days after the date of this judgment, then an order of sale shall issue out of this Court under the seal hereof, directed to the Sheriff of Johnson County, Kansas, commanding him to advertise and sell said property according to law and to apply the proceeds of said sale as follows:

FIRST: to the payment of the cost and accruing costs of this action and sale.

SECOND: to the payment of all taxes and assessments due against said real estate.

THIRD: to the payment of the judgment rendered herein in favor of plaintiff Centerre Bank of Kansas City, N.A. of \$385,213.66 plus interest of \$125.52 per day from and after June 2, 1985.

FOURTH: The residue, if any there be, be paid to the Clerk of this Court to abide by the further order of this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event the plaintiff is the successful bidder at the Sheriff's

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Sale, it shall be required to pay in cash only such amount as is necessary to pay all of the costs of this action accrued and accruing and all due and delinquent real estate taxes on the subject real estate and in addition thereto such amount as its bid exceeds the amount of the judgment entered herein (\$385,213.66) together with the accrued and accruing interest thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon confirmation of the sale of said described real estate, the Sheriff of said county shall issue to the purchaser at said sale a good and sufficient Certificate of Purchase for said real estate as by law provided; and in case the described real estate is not redeemed from sale within six months from the date thereof, the Sheriff of said county shall, upon surrender of said Certificate of Purchase, issue and deliver to the purchaser or its successors or assigns, a good and sufficient deed to said described real estate; that he shall put the purchaser in full, quiet, and peaceful possession thereof as against the defendants and any and all persons claiming by, through, or under them, and said defendants and any and all persons whosoever claiming by, through, or under them, upon confirmation of said sale, be and they are hereby by the Court forever barred, foreclosed, and precluded from having or claiming to have any right, title or interest to the estate, equity or lien in and to said described real estate or any part thereof, subject only to the rights of redemption as hereinabove provided.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant crossclaimant Lee S. Siebert be and hereby is granted judgment against co-defendant Mark Twain Marine, Inc. on his claim for indemnification in the amount equal to the sum actually paid by defendant Lee S. Siebert to plaintiff on plaintiff's judgment against defendant Lee S. Siebert.

IT IS SO ORDERED.

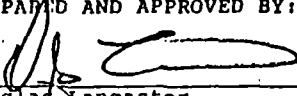
Janette Howard
The Honorable Janette Howard
Judge of the District Court

FILED
NOV 15 1985
U.S. DISTRICT COURT
BY

85-11068

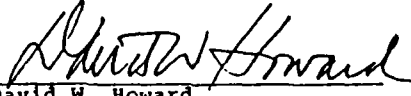
111005 0162

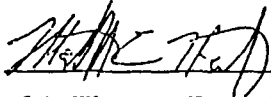
PREPARED AND APPROVED BY:


Douglas Lancaster
of LINDE THOMSON FAIRCHILD
LANGWORTHY KOHN & VAN DYKE, P.C.
Suite 1000 - One Glenwood Place
9300 Metcalf
Overland Park, KS 66212
(913) 649-4900

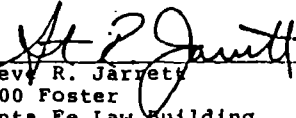
ATTORNEYS FOR PLAINTIFF,
CENTERRE BANK OF KANSAS CITY, N.A.

APPROVED:


David W. Howard
of RYDER, ROSE, FRENSLEY & SHAPIRO
601 West 47th Street
Kansas City, MO 64112


of PAYNE & JONES, CHARTERED
Commerce Terrace, Building C
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P. O. Box 25625
Overland Park, KS 66225

ATTORNEYS FOR DEFENDANTS,
LEE S. SIEBERT AND JANE SIEBERT


Steve R. Jarrett
8000 Foster
Santa Fe Law Building
Overland Park, KS 66212

ATTORNEY FOR DEFENDANT,
MARK TWAIN MARINE, INC.

LOVE COUNTY CLERK
OF THE DISTRICT COURT

1985 NOV 11 AM 10 06

FILED

IN THE DISTRICT COURT, JOHNSON COUNTY, KANSAS

85-11068

PLAINTIFF

CENTERRE BANK OF KANSAS CITY, N.A.

DEFENDANT

MARK WATKINS MARINE, INC., et al.

Case No. 133619

Authentication under Act of Congress

STATE OF KANSAS
COUNTY OF JOHNSON

Lova Duncan

Chief Clerk of the District Court in and for Johnson County, do hereby certify that the foregoing is a full and correct copy of

JOURNAL ENTRY OF JUDGMENT

In the case therein entitled, as the same appears in my office

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Seal of Said Court at the City of Olathe, this the 11th day of December, A.D. 1985

Lova Duncan Chief Clerk

STATE OF KANSAS
COUNTY OF JOHNSON

Janette Howard

Judge of the Tenth Judicial District of said

State, and presiding Judge of the District Court of Johnson County, do hereby certify that Lova Duncan, by whom the above attestation was made, was at the date thereof Chief Clerk of said Court, duly qualified and that the same is in due form of law and made by the proper officer.

Dated December 11, A.D. 1985

Janette Howard Judge

STATE OF KANSAS
COUNTY OF JOHNSON

Lova Duncan

Chief Clerk of the District Court in and for Johnson

County, do hereby certify that Hon. Janette Howard, whose genuine signature is subscribed to the foregoing Certificate, was at the date thereof presiding Judge of said Court, duly commissioned, sworn and acting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at the City of Olathe, this 11th day of December, A.D. 1985

Lova Duncan Chief Clerk

MEMORANDUM of JUDGMENT

CIRCUIT COURT OF FRANKLIN COUNTY

TO

RECORDER OF DEEDS FRANKLIN COUNTY

Please type or print complete information.

Judgment rendered AGAINST (Name and Address) Mark Twain Marine Industries, Inc.Industrial Park, P.O. Box 276, West Frankfort, IL 62986Judgment ☒ rendered ☐ revived (Check one) DATE 4/6/86 Amount \$49,392.77
day mo. yearIn favor of (Name) Hudson Building Supply CompanyCourt Case Number 85-L-70 Execution issued date June 4, 1986SIGNED Robert B. Siler Judge

DIVISION _____

Location of Court facility (if applicable):—

Mail Receipt to:

Name _____

Address _____

STATE OF ILLINOIS

County of Franklin

Document No. 86-3239

Filed for record

Space for Recorder's Date only

JUN 04 1986

9:45 o'clock P.M.

Fee paid \$ 6.00

Dave Tobill

MEMORANDUM OF JUDGMENT
CIRCUIT COURT OF FRANKLIN COUNTY

TO

RECORDER OF DEEDS, FRANKLIN COUNTY

Judgment rendered AGAINST--MARK TWAIN MARINE INDUSTRIES, INC.,
Industrial Park, West Frankfort, IL 62896

Judgment: X rendered DATE: 9/24/86 AMOUNT: \$ 7,170.86
 revived

In favor of--PERKO, INC., a Florida Corporation, c/o Robinson &
Greenberg, P.A., 328 Minorca Avenue, Coral Gables, FL 33134

Court Case Number: 86-MR-35 Execution issued date: _____

SIGNED: *[Signature]* X JUDGE
DIVISION: _____ MAGISTRATE

STATE OF ILLINOIS
County of Franklin
Document No. 86-6132
Filed for record

SEP 20 1986

at 10:35 a.m.
Fee paid \$ 6.00

Rae Dobill

Prepared by:

E. Kyle Vantrease
Vantrease & Vantrease
Attorney for Plaintiff
402 E. Main, P.O. Box 426
West Frankfort, IL 62896
Tel: 618-937-2418

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT

FRANKLIN COUNTY, ILLINOIS

HUDSON BUILDING SUPPLY COMPANY,
A Corporation,

Plaintiff,

vs.

MARK TWAIN MARINE INDUSTRIES,
INC., A Corporation,

Defendant.

STATE OF ILLINOIS
County of Franklin
Document No. 86-6508
Filed for record

Case No. 85-L-70 OCT 10 1986

at 10:10 o'clock
Fee paid \$ 7.80

File Adill

CERTIFICATE OF LEVY

Pursuant to Sections 12-152 and 12-153 of the Ill. Code of Civil Procedure, the Sheriff of Franklin County, Illinois, does hereby certify that by virtue of a Judgment from the Circuit Court of Franklin County in favor of Hudson Building Supply Company, A Corporation, against Mark Twaine Marine Industries, Inc., defendant, dated April 6, 1986, I did, on the 30 day of September, 1986, levy upon the following described premises:

Beginning at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a Bearing of South 1° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a Bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a Bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a Bearing of South 89° 19' 10" East a distance of 600.00 feet; Thence Southerly on a Bearing of South 0° 40' 50" West a distance of 10.88 feet to the Point of Beginning, containing 18.273 Acres (795,972 Square Feet) more or less, excepting, however, and reserving to the Grantor herein a tract of

86-6508

land twenty feet (20') in width being ten feet (10') on each side of the following described line: Beginning at the Northeast Corner of the Northwest quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the said Northwest Quarter of the Northeast Quarter of said Section 23, a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.74 feet to the Point of Beginning for the aforementioned line; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet, said tract of land to be used for a drainage easement, all situated in Franklin County, Illinois.

Date: September 30, 1982

FRANKLIN COUNTY SHERIFF

BY: Det. Marvin Davis

WINTERS, BREWSTER, MURPHY & CROSBY
ATTORNEYS AT LAW
111 WEST MAIN, P.O. BOX 700
MARION, IL 62959
618-997-5611

86-6508

CERTIFICATE OF MAILING

I, the undersigned, do hereby certify that I mailed a copy of the foregoing Certificate of Levy by depositing same in a U.S. Post Office Box in the City of Marion, Illinois, postage fully prepaid, and addressed as follows:

J. Ray Wood
306 Wood Building
P.O. Box 357
Benton, IL 62812

Dated: Oct 9, 1986.

Alvin R. Davis

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
SALINE COUNTY

MEMORANDUM OF JUDGMENT

Judgment rendered AGAINST:

NAME OF PARTY Mark Twain Marine Industries, Inc.

STREET ADDRESS P.O. Box 276, Industrial Park Road

CITY and STATE West Frankfort, Illinois 62896

Judgment ☒ rendered (Check one) DATE Nov. 12 1986 Amount \$29,359.44
☐ revived (mo. day year)

In favor of:

NAME OF PARTY Ryder Truck Rental, Inc.

STREET ADDRESS 12665 Pennridge Drive

CITY and STATE Bridgeton, Missouri 63044

Court Case Number 86-L-66

Execution issued date

SIGNED

(Judge or Associate Judge)

DIVISION

STATE OF ILLINOIS

County of Franklin

Document No. 86-7356

Filed for record

NOV 18 1986

at 10:35 o'clock A.M.
Fee paid \$2.02

Mail Receipt to:

Name Thomas J. Wolf, Jr., P.C.

Address P.O. Box 467

Harrisburg, IL 62946

Space for Recorder's Data only

Form 868(Y)

Department of the Treasury Internal Revenue Service

(Rev. May 1985)

Notice of Federal Tax Lien Under Internal Revenue Laws

District

Springfield, IL

Serial Number

378605126

For Optional Use by Recording Office

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, notice is given that taxes (including interest and penalties) have been assessed against the following named taxpayer. Demand for payment of this liability has been made, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

STATE OF ILLINOIS

County of Franklin

Document No. 86-7483

Filed for record

Name of Taxpayer Mark Twain Marine Industries, Inc., a Corporation

NOV 24 1986

at 9:00 o'clock P.M.
Fee paid \$6.00

Dave Dobill

Residence P.O. Box 276

West Frankfort, IL 62896

IMPORTANT RELEASE INFORMATION: With respect to each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	9-30-85	43-0912204	9-15-86	10-15-92	87904.08
941	12-31-85	43-0912204	8-25-86	9-24-92	113451.18
941	3-31-86	43-0912204	9-08-86	10-08-92	146042.65
941	6-30-86	43-0912204	8-25-86	9-24-92	171033.57
940	12-31-85	43-0912204	8-11-86	9-10-92	22115.37

Place of Filing

County Clerk and Recorder
Franklin County
Benton, IL 62812

Total

\$ 540546.85

This notice was prepared and signed at Springfield, IL, on this,

the 18th day of November, 1986

Signature

Frank Zarzecki
37-01-1417

Title

Revenue Officer

(NOTE: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Notice of Federal Tax Lien
Rev. Rul. 71-466, 1971-2 C.B. 409)

Part 1 Kept By Recording Office

Form 868(Y) (Rev. 8-85)

MEMORANDUM of JUDGMENT

CIRCUIT COURT OF FRANKLIN COUNTY
TORECORDER OF DEEDS FRANKLIN COUNTY

Please type or print complete information.

Judgment rendered AGAINST (Name and Address) MARK TWAIN MARINE INDUSTRIES,
INC., a corporation, Franklin County Industrial Park, West
Frankfort, IL 62896Judgment: ☒ rendered (Check one) DATE 06-30-87 Amount \$24,116.99
☐ revived day mo. yearIn favor of (Name) THE AMERICAN INSURANCE COMPANY, a corporationCourt Case Number 87-L-32 Execution issued date 06-30-87SIGNED *[Signature]* Judge

DIVISION _____

Location of Court facility (if applicable):—

Mail Receipt to:

Name BLEYER and BLEYERAddress 601 West JacksonMarion, IL 62959STATE OF ILLINOIS
Space for Recorder's File onlyDocument No. 87-3908
Filed for record

JUN 30 1987

2:40 P
M
Fee paid \$ 7.00*[Signature]*

JUL 18 '88 13:04

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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)	Chapter 11
)	
MARK TWAIN INDUSTRIES, INC.,)	No. 86 B 18104
d/b/a MARK TWAIN BOAT COMPANY,)	
)	Judge Squires
Debtor.)	

ORDER AUTHORIZING TRUSTEE TO SELL ASSETS
FREE AND CLEAR OF LIENS AND FOR RELATED RELIEF

This matter came before the court upon the motion of William A. Brandt, Jr., Trustee in Bankruptcy ("Trustee") for Mark Twain Industries, Inc., d/b/a Mark Twain Boat Company, the above-named debtor ("Debtor") requesting this court to enter an order pursuant to 11 U.S.C. §§105(a) and 363(b), (f) and Bankruptcy Rules 2002 and 6004 authorizing the sale of assets of this chapter 11 estate free and clear of all liens, claims and encumbrances in accordance with the terms and provisions of the letter of intent from Glasstream Boats, Inc. of Nashville, Georgia ("Glasstream"). Due written notice of the hearing was given to all creditors and parties in interest. The court finds as follows:

1. On November 17, 1986, the Debtor filed its petition for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §101, et seq.
2. At the date of the filing of its petition, the Debtor was engaged in the manufacture and sale of power boats at its plant in West Frankfort, Illinois.

JUL 18 '88 13:19

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3. From November 17, 1986 to May 3, 1988, the Debtor acted as debtor in possession pursuant to §§1107 and 1108 of the Bankruptcy Code.

4. On May 3, 1988, this court entered its order directing the appointment of a trustee in bankruptcy. William A. Brandt, Jr. has been designated by the U. S. Trustee's Office as the Trustee in Bankruptcy for this estate.

5. Substantially all of the Debtor's real and personal property is subject to alleged security interests or mortgages claimed by the Economic Development Administration ("EDA") and The Boatman's National Bank of St. Louis ("Bank") to secure claims aggregating approximately \$1.8 million.

6. On May 20, 1988, the Trustee received a letter of intent from Glasstream to purchase all of the Debtor's assets, excluding accounts receivable and cash, for the sum of \$1 million. The May 20 letter of intent was modified by the letter of intent dated June 22, 1988. Copies of Glasstream's letters of intent are attached to this motion as Exhibits "A" and "B."

7. All parties claiming an interest in the Debtor's assets to be sold to Glasstream have consented to this sale or such interests are in bona fide dispute.

8. As a consequence of the liens, claims and encumbrances on the Debtor's property, the Debtor has no equity in its assets and accordingly cannot confirm a chapter 11 plan.

9. Under these circumstances, the proposed sale of substantially all of the assets of this estate absent a confirmed

plan is both justified and appropriate. See In re Lionel Corp., 722 F.2d 1063 (2d Cir. 1983); In re Ancor Exploration Co., 30 B.R. 802 (N.D. Okl. 1983); In re Hunt Energy Company, Inc., 48 B.R. 472 (Bankr. N.D. Oh. 1985); In re Brookfield Clothes, 31 B.R. 978 (S.D.N.Y. 1983); In re Tele/Resources, Inc., 6 B.R. 628 (S.D.N.Y. 1980).

10. A decision to grant relief under section 363(b) of the Bankruptcy Code is not prohibited, absent a confirmed chapter 11 plan. Rather, it is within the sound discretion of the court to allow such relief in light of the existing circumstances of a particular case.

11. The Trustee has received no other cash offers and the other offers made in open court are rejected.

12. The sale of the assets of the Debtor is a "core" proceeding within the meaning of 28 U.S.C. §157(b).

13. The sale of the assets pursuant to 11 U.S.C. §363 to Glasstream and in accordance with its bid is in the best interest of the estate of the Debtor and its secured creditors.

14. Compelling business reasons exist which justify the sale of assets including, inter alia: (a) the Debtor's inability to obtain business credit terms from its suppliers so that the Trustee has run out of cash and is unable to order manufacturing supplies; (b) the value of the Debtor's business and assets will continue to deteriorate due to its inability to provide inventory for sale; (c) there are presently no viable alternatives to a cash sale of the assets of the Debtor.

15. The sale of the assets conducted pursuant to order and notice of sale of assets does not constitute a plan of reorganization.

16. The sale of assets of the Debtor meets the standards for sale as set forth in 11 U.S.C. §363 and as articulated in In re Lionel Corp., 722 F.2d 1063 (2nd Cir. 1983); In re Ancor Exploration Company, 30 B.R. 802 (N.D. Oklahoma 1983); In re Hunt Energy Company, Inc., 48 B.R. 472 (Bankr. N.D. Ohio 1985).

17. Glasstream is a good faith purchaser for value within the meaning of 11 U.S.C. §363(m) and as articulated in In re Vetter Corporation, 724 F.2d 52 (7th Cir. 1983).

18. No objections to the court's findings that Glasstream is a good faith purchaser were raised at the hearing by any party.

19. No party in interest has adequately evidenced the ability to implement any alternative to the sale of assets to Glasstream.

20. Failure to consummate the sale of assets to Glasstream will result in the Trustee's abandonment of the Debtor's assets to the secured creditors.

21. The sale price is adequate under the circumstances.

22. The interests of all creditors in the sale proceeds from the sale of assets of this estate shall be adequately protected by depositing the sale proceeds into an interest bearing account upon receipt ("segregated funds").

23. No portion of the sale proceeds may be disbursed, except upon further order of this court after hearing and notice appropriate in the circumstances.

24. All asserted claims of liens, security interests, encumbrances or other property interest shall attach to and be paid from the segregated funds to the same extent and in the same priority that such claims of lien, encumbrance or other property interests were legally unpaid and enforceable against the assets of the Debtor prior to the sale of assets.

25. This order, when entered, will be a final order within the meaning of 28 U.S.C. §157(b) and will be effective immediately upon entry.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

A. All objections to the sale are hereby overruled.

B. The Trustee is authorized to sell, assign, convey and transfer to Glasstream for the sum of \$1 million payable at closing pursuant to Glasstream's revised June 22, 1988 letter of intent (Exhibit "B") substantially all of the Debtor's assets including, without limitation, customer lists, goodwill, machinery, equipment, land and buildings, service marks, trademarks, tradenames, machinery and equipment owned by the Debtor, furniture and fixtures, inventory and, to the extent assignable, any and all licenses, permits and authorizations from federal and state agencies or instrumentalities. The Trustee shall pay out of the \$1 million purchase price all real estate taxes due on the property in question except real estate taxes

for the year 1988 which shall be borne by the purchaser. The Trustee is selling to Glasstream the above described assets free and clear of all liens, claims, interests and encumbrances, obligations or liabilities whether accrued, contingent, absolute or otherwise of the Debtor or Debtor in Possession, including without limitation, product warranty and liability claims, claims for unfunded pension plans, obligations to employees, product liability or warranty claims, environmental claims and unemployment insurance rate claims, with good and marketable title thereto. Any and all liens, claims and encumbrances shall attach to the sale proceeds pursuant to 11 U.S.C. §363. The sale shall not include cash, cash equivalents, bank accounts or accounts receivable which are specifically excluded from the sale.

C. The Trustee is authorized and directed to execute and deliver any and all documents and instruments of transfer and conveyance and to take any actions which, in the opinion of the counsel for the Trustee, are necessary and appropriate to consummate this transaction.

D. Any claims held by the Trustee or any other party against Glasstream arising out of Glasstream's inability to close are hereby preserved.

E. All cash, cash equivalents and accounts receivable arising under 11 U.S.C. §§510, 544, 547, 548 and 549 are hereby excluded from the sale and reserved to the Trustee.

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F. This court retains jurisdiction to (a) interpret and enforce the terms of this order; and (b) adjudicate all issues regarding liens, claims and encumbrances against the sale proceeds.

G. The sale proceeds shall be deposited in a segregated interest bearing account in the name of the Trustee and no part thereof shall disburse without further order of court.

BY THE COURT:

Dated: JUN 27 1990

John H. Squire
BANKRUPTCY JUDGE

JUL 18 '88 13:26

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May 20, 1988

Mr. William A. Brandt, Jr.
Suite 1122
33 West Jackson Boulevard
Chicago, IL 60604-3701

FAX NO. 312/786-0383

RE: MARK TWAIN INDUSTRIES, INC. d/b/a MARK TWAIN BOAT COMPANY
BANKRUPTCY NO. 86-B-18184; UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Dear Mr. Brandt:

This letter is a letter of intent with respect to our understanding with you, as the duly appointed and acting trustee of the above-referenced debtor, relative to the proposed purchase by Glasstream Boats, Inc., or one of its subsidiaries, [hereinafter 'Glasstream'] from you, in such capacity, of the following assets of the debtor:

All assets of the debtor with the exception of its accounts receivable with our understanding being that the assets to be purchased include a certain 100,000 sq. ft. plant site in West Frankford, Illinois, together with all real estate upon which it is located as well as all machinery, equipment, inventory and other assets utilized in the maintenance and operation of such plant and currently utilized in manufacture of boats at such site together with all inventory of the debtor, all debtor's rights to the use of the name of Mark Twain and Mark Twain Boat Company, other assets of the debtor.

This letter shall constitute our commitment to purchase such assets, upon satisfaction of the conditions set forth herein, for one million dollars (\$1,000,000.00) payable by the assumption of the unpaid balance due, as adjusted prior to closing, of a certain EDA loan secured by a first position mortgage on the plant site and the payment at closing of the difference between the one million dollar figure and such assumed mortgage debt.

This commitment to purchase is conditioned and contingent upon the following:

1. The assets of the debtor acquired by Glasstream consisting of substantially those items which we have been led to believe would be the subject of purchase pursuant to the provisions hereof (subject to utilization in the normal course of business at such plant);
2. Approval within 20 days from the date hereof by the Bankruptcy Court of the transactions contemplated herein;

EXHIBIT A

JUL 18 '88 13:27

P.8

Mr. William A. Brandt, Jr.
May 20, 1988
Page 2

3. Successful negotiation and documentation in form and substance satisfactory to Glasstream of the restructuring and assumption of the KDA first mortgage debt upon terms satisfactory to Glasstream;
4. Determination by Glasstream of the lack of any significant environmental issue with respect to the plant site and the assets to be acquired;
5. Agreement upon mutually acceptable conditions and circumstances with respect to Glasstream's utilization of the plant site and the properties to be acquired during the period of time subsequent to court approval and pending closing;
6. The execution of a mutually acceptable definitive purchase agreement relative to these matters;
7. Reasonable access being afforded to Glasstream, its agents, employees and representatives pending closing to the plant site, the assets to be purchased, and books and records of the debtor;
8. Glasstream receiving, at closing, clear marketable title to all of the assets subject to no liens or encumbrances of any nature whatsoever except solely the first mortgage lien of KDA and free and clear of all other liens, encumbrances, restrictions and impediments to title; and,
9. Your acceptance hereof.

It is our understanding that the proposed acquisition will be "as is" and "where is" and that following court approval and the execution of a definitive purchase agreement as well as satisfaction of the other conditions for closing, closing will be held as soon as is reasonably practicable under the circumstances following the obtaining of court approval.

It is further our understanding that:

1. both parties will bear all costs incurred by each of them in connection with the matters herein contemplated;
2. Glasstream will deposit with you in escrow the sum of \$15,000.00 which, in the event of consummation of the acquisition contemplated herein will be applied to the purchase price and which will be refunded in full to Glasstream in the event that the court fails to approve the

JUL 18 '88 13:28

P.9

Mr. William A. Brandt, Jr.
May 20, 1988
Page 3

transactions contemplated herein within 30 days from the date hereof or such acquisition is not consummated due to the inability of the parties to satisfy any of the conditions contained herein; and

3. All risk of loss (except to the extent specifically agreed otherwise in writing) prior to closing shall be born by the estate of the debtor and in the event of any significant such loss Glasstream will have the right to rescind this agreement and receive in full a refund the escrow.

This letter is intended to evidence the understandings that we have reached regarding the proposed acquisition and our mutual intent to consummate, upon the terms and conditions herein contained, the transactions herein contemplated and that both parties will utilize their best efforts in order to effectuate consummation of the transactions herein contemplated, including but not limited to obtaining of court approval of the contemplated transactions.

In consideration of the provisions hereof, and the \$55,000.00 escrow, it is our understanding that you agree (pending determination by the Bankruptcy Court of whether or not to approve the transactions contemplated herein) that you will (1) utilize your best efforts to preserve the property; (2) take no action which would adversely affect the property or its value (both (1) and (2) being subject however to your right to continue to operate on a ongoing basis such plant site in the normal course of business); (3) not engage in any negotiations with any other party with respect to the sale of the assets herein covered; or (4) not enter into any agreement or understanding with any other party with respect to the sale of such assets.

If this letter evidences your understanding of our intent and understanding, please execute and return a copy to us.

Sincerely,

GLASSTREAM BOATS, INC.

By: _____
A. L. KIRKLAND, JR.

Accepted and agreed to this _____ day of May, 1988.

WILLIAM A. BRANDT, JR., Trustee

JUL 18 '88 13:29

P.10



BOATS, Inc.

June 22, 1988

POST OFFICE BOX 943
HIGHWAY 129 SOUTH
NASHVILLE, GEORGIA 31639
PHONE 615/486-2128
686-2960
686-8561

Mr. William A. Brandt, Jr.
Suite 1122
53 West Jackson Boulevard
Chicago, IL 60604-3701

FAX NO. 312/786-0383

RE: MARK TWAIN INDUSTRIES, INC. d/b/a MARK TWAIN BOAT COMPANY
BANKRUPTCY NO. 86-B-18184; UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Dear Mr. Brandt:

This letter constitutes an amendment to our letter of intent of May 20, 1988, and a revised letter of intent with respect to our understanding with you, as the duly appointed and acting trustee of the above-referenced debtor, relative to the proposed purchase by Glasstream Boats, Inc., or one of its subsidiaries, [hereinafter "Glasstream"] from you, in such capacity, of the following assets of the debtor:

All tangible assets and all intangible assets of the debtor with the exception of its cash, cash equivalents and accounts receivable with our understanding being that the assets to be purchased include a certain 380,000 sq. ft. plant site in West Frankford, Illinois, together with all real estate upon which it is located as well as all machinery, equipment, inventory and other assets utilized in the maintenance and operation of such plant and currently utilized in manufacture of boats at such site together with all inventory of the debtor, and all debtor's rights to the use of the name of Mark Twain and Mark Twain Boat Company.

This letter shall constitute our commitment to purchase such assets, upon satisfaction of the conditions set forth herein, for one million dollars (\$1,000,000.00) payable in cash or cash equivalent funds at closing.

This commitment to purchase is conditioned and contingent upon the following:

1. The assets of the debtor acquired by Glasstream consisting of substantially those items which we have been led to believe would be the subject of purchase pursuant to the provisions hereof (subject to utilization in the normal course of business at such plant);
2. Approval prior to June 30, 1988, by the Bankruptcy Court of the transactions contemplated herein;

EXHIBIT

B

JUL 18 '88 13:31

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Mr. William A. Brandt, Jr.
June 22, 1988
Page 2

3. Determination by Glasstream of the lack of any significant environmental issue with respect to the plant site and the assets to be acquired;
4. The execution of a mutually acceptable definitive purchase agreement relative to these matters;
5. Reasonable access being afforded to Glasstream, its agents, employees and representatives pending closing to the plant site, the assets to be purchased, and books and records of the debtor;
6. Glasstream receiving, at closing, clear marketable title to all of the assets subject to no liens or encumbrances of any nature whatsoever except solely the first mortgage lien of EDA and free and clear of all other liens, encumbrances, restrictions and impediments to title; and,
7. Your acceptance hereof within three (3) business days following approval by the Bankruptcy Court.

It is our understanding that the proposed acquisition will be "as is" and "where is" and that following court approval and the execution of a definitive purchase agreement as well as satisfaction of the other conditions for closing, closing will be held as soon as is reasonably practicable under the circumstances following the obtaining of court approval and your acceptance.

It is further our understanding that:

1. both parties will bear all costs incurred by each of them in connection with the matters herein contemplated;
2. Glasstream has deposited with you in escrow the sum of \$55,000.00 which, in the event of consummation of the acquisition contemplated herein will be applied to the purchase price and which will be refunded in full to Glasstream in the event that the court fails to approve the transactions contemplated herein or such acquisition is not consummated due to the inability of the parties to satisfy any of the conditions contained herein; and
3. All risk of loss (except to the extent specifically agreed otherwise in writing) prior to closing shall be born by the estate of the debtor and in the event of any significant such loss Glasstream will have the right to rescind this agreement and receive in full a refund the escrow.

JUL 18 '88 13:32

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Mr. William A. Brandt, Jr.
June 22, 1988
Page 3

This letter is intended to evidence the understandings that we have reached regarding the proposed acquisition and our mutual intent to consummate, upon the terms and conditions herein contained, the transactions herein contemplated and that both parties will utilize their best efforts in order to effectuate consummation of the transactions herein contemplated, including but not limited to obtaining of court approval of the contemplated transactions.

In consideration of the provisions hereof, and the \$35,000.00 escrow, it is our understanding that you agree [upon approval by the Bankruptcy Court of the transactions contemplated herein] that you will (1) utilize your best efforts to preserve the property; (2) take no action which would adversely affect the property or its value [both (1) and (2) being subject however to your right to continue to operate on a ongoing basis such plant site in the normal course of business]; (3) not engage in any negotiations with any other party with respect to the sale of the assets herein covered; or (4) not enter into any agreement or understanding with any other party with respect to the sale of such assets.

If this letter evidences your understanding of our intent and understanding, please execute and return a copy to us.

Sincerely,

GLASSTREAM BOATS, INC.

By: A. L. Kirkland, Jr.

A. L. KIRKLAND, JR.

Accepted and agreed to this _____ day of June, 1988.

WILLIAM A. BRANDT, JR., Trustee

Abstracter's Note: The foregoing order does not appear of record in Franklin County, Illinois. The copy shown herein is from the abstracter's files.

TRUSTEE'S DEED
(ILLINOIS)

CAUTION: Consult a lawyer before using or acting under this form. Neither the publisher nor the seller of this form makes any warranty with respect thereto, including any warranty of merchantability or fitness for a particular purpose.

STATE OF ILLINOIS
County of Franklin

Document No. 18-4167.
Filed for record

JUL 25 1988

at 10:55 clock A.M.
Fee paid \$7.00

Barre Dobill

THIS INDENTURE, made this 22nd day of July 1988, between William Brandt, Jr., Trustee in Bankruptcy for Mark Twain Marine Industries, Inc. d/b/a Mark Twain Boat Company as trustee under Order of US Bankruptcy Court for the Northern District of Illinois, Eastern Division, dated the 27th day of June, 1988, grantor, and Glasstream Boats, Inc., a Georgia corporation, PO Box 943, Hwy. 129 South, Nashville, Georgia 31639 grantee,

(NAME AND ADDRESS OF GRANTEE)

WITNESSETH, That grantor, in consideration of the sum of Seven Hundred Fifty Thousand and no/100

Dollars, receipt whereof is hereby acknowledged, and in pursuance of the power and authority vested in the grantor as said trustee and of every other power and authority the grantor hereunto enabling, do hereby convey and quitclaim unto the grantee, in fee simple, the following described real estate, situated in the County of Franklin and State of Illinois, to wit:

(The Above Space For Recorder's Use Only)

See Exhibit "A" attached hereto and made a part hereof.

together with the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining

Permanent Real Estate Index Number(s):

Address(es) of real estate: PO Box 276 Franklin County Industrial Park, West Frankfort, Illinois

IN WITNESS WHEREOF, the grantor, as trustee as aforesaid, hereunto set his hand and seal as of the day and year first above written.

William Brandt, Jr., Trustee in Bankruptcy

PLEASE PRINT OR
TYPE NAME(S) BELOW
SIGNATURE(S)

as trustee as aforesaid

State of Illinois, County of Cook ss. I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that William Brandt, Jr., Trustee in Bankruptcy for Mark Twain Marine Industries, Inc. d/b/a Mark Twain Boat Company

personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such trustee, for the uses and purposes therein set forth.

Given under my hand and official seal, this 22nd day of July 1988

Commission expires June 20 1991

Loraine Carman
NOTARY PUBLIC

This instrument was prepared by Inez K. Tremain, Esq., Tishler & Wald, Ltd., 55 W. Monroe Suite 700, Chicago, Illinois 60603

MAIL TO:

Bruce L. Wald
Tishler & Wald, Ltd.
55 West Monroe, Suite 700
Chicago, Illinois 60603

SEND SUBSEQUENT TAX BILLS TO:

Glasstream Boats, Inc.
PO Box 943, Hwy. 129 South
Nashville, Georgia 31639

Attn: A. L. Kirkland

OFFICIAL SEAL
LORAIN CARMAN
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXPIRES JUNE 20, 1991

STATE OF ILLINOIS
REAL ESTATE TRANSFER TAX
REVENUE
JUL 25 1988
DEPT OF REVENUE
10700
04 827

208-
88-4167

EXHIBIT "A"

LEGAL DESCRIPTION

A part of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Fourteen (14), and a part of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Twenty-three (23), all in Township Seven (7) South, Range Two (2) East of the Third Principal Meridian, more particularly described as follows: Beginning at the Northeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 23, Township 7 South, Range 2 East of the Third P.M.; thence Westerly on the North line of the said Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 23 a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a bearing of South 89° 19' 10" East a distance of 600.00 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 10.88 feet to the point of beginning, Excepting a tract of land twenty (20) feet in width being ten (10) feet on each side of the following described line: Beginning at the Northeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 23, Township 7 South, Range 2 East of the Third P.M.; thence Westerly on the North line of the said Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the said Section 23 a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.75 feet to the point of beginning for the aforementioned line; thence Westerly on bearing of North 89° 10' 10" West a distance of 600.00 feet, said tract of land to be used for a drainage easement, and excepting all the coal, oil, gas and other minerals underlying the same and all rights and easements in favor of the owner of the mineral estate or of any party claiming by, through, or under said estate, situated in FRANKLIN COUNTY, ILLINOIS.

XX
STATE OF ILLINOIS
County of Franklin
Document No. 88-4168
Filed for record

JUL 25 1988

MORTGAGE AND SECURITY AGREEMENT

at 10:55 clock A.M.
Fee paid \$44.00
Saw Book
THIS MORTGAGE AND SECURITY AGREEMENT (this Mortgage), made as of July 22, 1988, is made and executed by GLASSTREAM BOATS, INC., a Georgia corporation, having its principal offices at Highway 129 South, Nashville, Georgia 31639 ("Mortgagor"), in favor of BANK SOUTH, N.A., a national banking association, having its main office at 55 Marietta Street, N.W., Atlanta, Georgia ("Lender").

RECITALS

I. Lender has agreed, subject to the terms and conditions of Lender's loan commitment letter dated July 16, 1988 (the "Loan Commitment"), to make a loan to Mortgagor in an amount not to exceed \$850,000 (the "Loan").

II. The Loan is evidenced by that certain Promissory Note of even date herewith executed by the Mortgagor in favor of Lender in the principal sum of \$850,000 (the "Note"). A copy of the Note is attached hereto as Exhibit A. The terms and provisions of the Note are hereby incorporated, by reference, in this Mortgage.

GRANTING CLAUSES

To secure the payment of the indebtedness evidenced by the Note and the payment of all amounts due under and the performance and observance of all covenants and conditions contained in this Mortgage, the Note, the Loan Commitment, any and all other mortgages, security agreements, assignments of leases and rents, guaranties, letters of credit and any other documents and instruments now or hereafter executed by Mortgagor or any party related thereto or affiliated therewith to evidence, secure or guarantee the payment of all or any portion of the indebtedness under the Note and any and all renewals, extensions, amendments and replacements of this Mortgage, the Note, the Loan Commitment and any such other documents and instruments (the Note, the Loan Commitment, this Mortgage, such other mortgages, security agreements, assignments of leases and rents, guaranties, letters of credit, and any other documents and instruments now or hereafter executed and delivered in connection with the Loan, and any and all amendments, renewals, extensions and replacements hereof and thereof, being sometimes referred to collectively as the "Loan Instruments" and individually as the "Loan Instrument") as well as to secure all other indebtedness and obligations now or hereafter owing by Mortgagor to Lender, however or whenever created or incurred, whether direct or indirect or

INSTRUMENT PREPARED BY:
HILARY P. JORDAN, ESQ.
KILPATRICK & CODY
3100 EQUITABLE BUILDING
ATLANTA, GEORGIA 30302

MAIL TO:
HILARY P. JORDAN, ESQ.
KILPATRICK & CODY
3100 EQUITABLE BUILDING
ATLANTA, GEORGIA 30302

5-39
88-4168

joint or several, and any renewals, replacements or modifications of or for any of same, including without limitation any indebtedness and obligations of Mortgagor to Lender now or hereafter arising under or in connection with the Loan Agreement, dated as of December 29, 1986, between Mortgagor and Lender as amended (the "Loan Agreement") or any of the Notes or other Financing Documents (as such terms are defined in the Loan Agreement) (all indebtedness and liabilities secured hereby being hereinafter sometimes collectively referred to as "Borrower's Liabilities"), Mortgagor does hereby convey, mortgage, assign, transfer, pledge and deliver to Lender the following described property subject to the terms and conditions herein:

(A) The land located in Franklin County, Illinois, legally described in attached Exhibit B ("Land");

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land; and, to the extent not owned by tenants of the Mortgaged Property, all machinery, appliances, equipment, furniture and all other personal property of every kind or nature located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Land or any buildings, structures, improvements or fixtures now or hereafter located or to be located on the Land, or in connection with any construction being conducted or which may be conducted thereon, and all extensions, additions, improvements, substitutions and replacements of or to any of the foregoing ("Improvements");

(C) All building materials and goods which are procured or to be procured for use on or in connection with the Improvements or the construction of additional Improvements, whether or not such materials and goods have been delivered to the Land ("Materials");

(D) All plans, specifications, architectural renderings, drawings, licenses, permits, soil test reports, other reports of examinations or analyses of the Land or the Improvements, contracts for services to be rendered to Mortgagor or otherwise in connection with the Improvements, and all other property, contracts, reports, proposals and other materials now or hereafter existing in any way relating to the Land or the Improvements or the construction of additional Improvements;

(E) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and

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appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired ("Appurtenances");

(F) (i) All judgments, insurance proceeds, awards of damages, and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage or taking, pursuant to the power of eminent domain, of the Land, Improvements, Appurtenances or Materials or any part thereof, (b) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances, Materials or of other property, or (c) the alteration of the grade of any street or highway on or about the Land, Improvements, Appurtenances, Materials or any part thereof; and, except as otherwise provided herein, Lender is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein, to apply the same toward the payment of the indebtedness and other sums secured hereby;

(iii) All contract rights, general intangibles, actions and rights in action, including, without limitation, all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Land, Improvements, Appurtenances or Materials; and

(iv) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements, Appurtenances or Materials;

(G) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (the "Rents"); it being intended that this Granting Clause shall constitute an absolute and present assignment of the Rents, subject, however, to the conditional permission given to Mortgagor to collect and use the Rents as provided in this Mortgage;

(H) Any and all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements, Appurtenances or Materials, together with all security therefor and guaranties thereof and all monies

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payable thereunder, and all books and records owned by Mortgagor which contain evidence of payments made under the leases and all security given therefor (collectively, the "Leases"), subject, however, to the conditional permission given in this Mortgage to Mortgagor to collect the Rents arising under the Leases as provided in this Mortgage;

(I) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding Granting Clauses; and

(J) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses;

All of the mortgaged property described in the Granting Clauses, together with all real and personal, tangible and intangible property pledged in, or to which a security interest attached pursuant to, any of the Loan Instruments is sometimes referred to collectively as the "Mortgaged Property". The Rents and Leases are pledged on a parity with the Land and Improvements and not secondarily.

ARTICLE ONE

COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Lender as follows:

1.01 Performance under Note, Mortgage and Other Instruments. Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof and of the Note, every other Loan Instrument and every instrument evidencing or securing Borrower's Liabilities and will promptly pay or cause to be paid to Lender when due the principal with interest thereon and all other sums required to be paid by Mortgagor pursuant to the Note, this Mortgage, every other Loan Instrument and every other instrument evidencing or securing Borrower's Liabilities.

1.02 General Covenants and Representations. Mortgagor covenants and represents that as of the date hereof and at all times thereafter during the term hereof: (a) Mortgagor is seized of an indefeasible estate in fee simple in that portion of the Mortgaged Property which is real property, and has good and absolute title to it and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances

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whatsoever except those described in Exhibit C, if any (the "Permitted Encumbrances"); (b) Mortgagor has good right, full power and lawful authority to mortgage and pledge the Mortgaged Property as provided herein; (c) upon the occurrence of an Event of Default, Lender may at all times peaceably and quietly enter upon, hold, occupy and enjoy the Mortgaged Property in accordance with the terms hereof; and (d) Mortgagor will maintain and preserve the lien of this Mortgage as a first and paramount lien on the Mortgaged Property subject only to the Permitted Encumbrances until Borrower's Liabilities have been paid in full.

1.03 Compliance with Laws and Other Restrictions.

Mortgagor covenants and represents that the Land and the Improvements and the use thereof presently comply with, and will during the full term of this Mortgage continue to comply with, all applicable restrictive covenants, zoning and subdivision ordinances and building codes, licenses, health and environmental laws and regulations and all other applicable laws, ordinances, rules and regulations. If any federal, state or other governmental body or any court issues any notice or order to the effect that the Mortgaged Property or any part thereof is not in compliance with any such covenant, ordinance, code, law or regulation, Mortgagor will promptly provide Lender with a copy of such notice or order and will immediately commence and diligently perform all such actions as are necessary to comply therewith or otherwise correct such non-compliance. Mortgagor shall not, without the prior written consent of Lender, petition for or otherwise seek any change in the zoning ordinances or other public or private restrictions applicable to the Mortgaged Property on the date hereof.

1.04 Taxes and Other Charges.

1.04.1 Taxes and Assessments. Mortgagor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon or against the interest of Lender in the Mortgaged Property, as well as all taxes, assessments and other governmental charges levied and imposed by the United States of America or any state, county, municipality or other taxing authority upon or in respect of the Mortgaged Property or any part thereof; provided, however, that unless compliance with applicable laws requires that taxes, assessments or other charges must be paid as a condition to protesting or contesting the amount thereof, Mortgagor may

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in good faith, by appropriate proceedings commenced within ninety (90) days of the due date of such amounts and thereafter diligently pursued, contest the validity, applicability or amount of any asserted tax, assessment or other charge and pending such contest Mortgagor shall not be deemed in default hereunder if on or before the due date of the asserted tax or assessment, Mortgagor shall deposit with Lender a bond or other security satisfactory to Lender in the amount of one hundred fifty percent (150%) of the amount of such tax or assessment. Mortgagor shall pay the disputed or contested tax, assessment or other charge and all interest and penalties due in respect thereof on or before the date any adjudication of the validity or amount thereof becomes final and in any event no less than thirty (30) days prior to any forfeiture or sale of the Mortgaged Property by reasons of such non-payment. Upon Lender's request, Mortgagor will promptly file, if it has not theretofore filed, such petition, application or other instrument as is necessary to cause the Land and Improvements to be taxed as a separate parcel or parcels which include no property not a part of the Mortgaged Property.

1.04.2 Taxes Affecting Lender's Interest. If any state, federal, municipal or other governmental law, order, rule or regulation, which becomes effective subsequent to the date hereof, in any manner changes or modifies existing laws governing the taxation of mortgages or debts secured by mortgages, or the manner of collecting taxes, so as to impose on Lender a tax by reason of its ownership of any or all of the Loan Instruments or measured by the principal amount of the Note or any of the other of the Borrower's Liabilities, require or have the practical effect of requiring Lender to pay any portion of the real estate taxes levied in respect of the Mortgaged Property or to pay any tax levied in whole or in part in substitution for real estate taxes or otherwise affects materially and adversely the rights of Lender in respect of the Note, this Mortgage or the other Loan Instruments, Borrower's Liabilities and all interest accrued thereon shall, upon thirty (30) days' notice, become due and payable forthwith at the option of Lender, whether or not there shall have occurred an Event of Default, provided, however, that, if Mortgagor may, without violating or causing a violation of such law, order, rule or regulations, pay such taxes or other sums as are necessary to eliminate such adverse effect upon the rights of Lender and does pay such taxes or other sums when due, Lender shall not declare due Borrower's Liabilities by reason of the provisions of this Paragraph 1.04.2.

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1.05 Mechanic's and Other Liens. Mortgagor shall not permit or suffer any mechanic's, laborer's, material-man's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Mortgaged Property, provided, however, that Mortgagor may in good faith, by appropriate proceeding, contest the validity, applicability or amount of any asserted lien and, pending such contest, Mortgagor shall not be deemed to be in default hereunder if Mortgagor shall first deposit with Lender a bond or other security satisfactory to Lender in the amount of one hundred fifty percent (150%) of the amount of such lien. Mortgagor shall pay the disputed amount and all interest and penalties due in respect thereof on or before the date any adjudication of the validity or amount thereof becomes final and, in any event, no less than thirty (30) days prior to any foreclosure sale of the Mortgaged Property or the exercise of any other remedy by such claimant against the Mortgaged Property.

1.06 Insurance and Condemnation.

1.06.1 Hazard Insurance. Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Lender, until Borrower's Liabilities are paid in full, policies of hazard insurance in an amount which shall be not less than 100% of the full insurable replacement cost of the Mortgaged Property (other than the Land) insuring on a replacement cost basis the Mortgaged Property against loss or damage on an "All Risks" form, such insurable hazards, casualties and contingencies as Lender may require, including without limitation fire, windstorm, rainstorm, vandalism, earthquake and, if all or any part of the Mortgaged Property shall at any time be located within an area identified by the government of the United States or any agency thereof as having special flood hazards and for which flood insurance is available, flood. Mortgagor shall pay promptly when due any premiums on such insurance policies and on any renewals thereof. The form of such policies and the companies issuing them shall be acceptable to Lender. If any such policy shall contain a co-insurance clause it shall also contain an agreed amount or stipulated value endorsement. All such policies and renewals thereof shall be held by Lender and shall contain a standard mortgagee's endorsement making losses payable to Lender. No additional parties shall appear in the mortgage clause without Lender's prior written consent. In the event of loss, Mortgagor will give immediate written consent. In the event of loss, Mortgagor will give immediate written notice to Lender and Lender may make proof of loss if not

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made promptly by Mortgagor (for which purpose Mortgagor hereby irrevocably appoints Lender as its attorney-in-fact). In the event of the foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in full or partial satisfaction of Borrower's Liabilities, all right, title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee. All such policies shall provide that they shall not be modified, cancelled or terminated without at least thirty (30) days' prior written notice to Lender from the insurer.

1.06.2 Other Insurance. Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of, Lender, until Borrower's Liabilities are paid in full, (i) a general liability insurance policy in an amount satisfactory to Lender and (ii) such other insurance policies relating to the Mortgaged Property and the use and operation thereof, including dramshop and workmen's compensation insurance, in such amounts as may be reasonably required by Lender and with such companies and in such form as may be acceptable to Lender. Lender, by written demand upon Mortgagor, may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereunder.

1.06.3 Adjustment of Loss. Lender is hereby authorized and empowered, at its option after the occurrence of any Event of Default, to adjust or compromise any loss under any insurance policies covering or relating to the Mortgaged Property or the Tangible Goods and to collect and receive the proceeds from any such policy or policies (and deposit such proceeds as provided in Paragraph 1.06.5). Mortgagor hereby irrevocably appoints Lender as its attorney-in-fact for the purposes set forth in the preceding sentence. Each insurance company is hereby authorized and directed to make payment (i) of 100% of all such losses of more than said amount directly to Lender alone and (ii) of 100% of all such losses of said amount or less directly to Mortgagor alone, and in no case to Mortgagor and Lender jointly. After deducting from such insurance proceeds any expenses incurred by Lender in the collection and settlement thereof, including without limitation attorneys' and adjusters' fees and charges, Lender shall apply the net proceeds as provided in Paragraph 1.06.5. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

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1.06.4 Condemnation Awards. Lender shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any party thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property, or (iii) the alternation of the grade of any street or highway on or about the Mortgaged Property. Lender is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Mortgagor hereby irrevocably appoints Lender as its attorney-in-fact for the purposes set forth in the preceding sentence. Lender after deducting from such compensation, awards, damages, claims, rights of action and proceeds all its expenses, including attorneys' fees, may apply such net proceeds (except as otherwise provided in Paragraph 1.06.5 of this Mortgage) to payment of Borrower's Liabilities in such order and manner as Lender may elect. Mortgagor agrees to execute such further assignments of any compensation awards, damages, claims, rights of action and proceeds as Lender may require.

1.06.5 Repair; Proceeds of Casualty Insurance and Eminent Domain. If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Paragraph 1.06.4, Mortgagor shall promptly and with all due diligence restore and repair the Mortgaged Property whether or not the proceeds, award or other compensation are sufficient to pay the cost of such restoration or repair. In the event that an Event of Default has not occurred hereunder, such proceeds, award or other compensation shall be made available to Mortgagor on the terms and conditions set forth in this Paragraph 1.06.5 to finance the cost of restoration or repair with any excess to be applied to Borrower's Liabilities in such order and manner as Lender may elect. If an Event of Default has occurred, then at Lender's election, to be exercised by written notice to Mortgagor within thirty (30) days following Lender's unrestricted receipt in cash or the equivalent thereof of said proceeds, award or other compensation, the entire amount of said proceeds, award or compensation shall either (i) be applied to Borrower's Liabilities in such order and manner as Lender may elect or (ii) be made available to Mortgagor on the terms and conditions set forth in this Paragraph 1.06.5 to finance the cost of restoration or

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repair with any excess to be applied to Borrower's Liabilities. The amount of proceeds, award or compensation which is to be made available to Mortgagor, together with any deposits made by Mortgagor hereunder, shall be held by Lender to be disbursed from time to time to pay the cost of repair or restoration either, at Lender's option, to Mortgagor or directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Lender may impose to assure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof. Lender may commingle any such funds held by it with its other general funds. Lender shall not be obligated to pay interest in respect of any such funds held by it nor shall Mortgagor be entitled to a credit against any of Borrower's Liabilities except and to the extent the funds are applied thereto pursuant to this Paragraph 1.06.5. Notwithstanding any other provision of this Paragraph 1.06.5, if an Event of Default shall be existing at the time of such casualty, taking or other event or if an Event of Default occurs thereafter, Lender shall have the right to immediately apply all insurance proceeds, awards or compensation to the payment of Borrower's Liabilities in such order and manner as Lender may determine. Lender shall have the right at all times to apply such net proceeds to the cure of any Event of Default or the performance of any obligations of Mortgagor or Beneficiary under the Loan Instruments.

1.07. Non-Impairment of Lender's Rights. Nothing contained in this Mortgage shall be deemed to limit or otherwise affect any right or remedy of Lender under any provision of this Mortgage or of any statute or rule of law to pay and, upon Mortgagor's failure to pay the same, Lender may pay any amount required to be paid by Mortgagor under Paragraphs 1.04, 1.05 and 1.06. Mortgagor shall pay to Lender on demand the amount so paid by Lender together with interest at the Interest Rate (as defined in the Note), and the amount so paid by Lender shall be added to Borrower's Liabilities.

1.08 Care of the Mortgaged Property.

(a) Mortgagor shall preserve and maintain the Mortgaged Property in good and first class condition and repair. Mortgagor shall not, without the prior written consent of Lender, permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or of any part thereof, and will not take any action which will increase the risk of fire or other hazard to the Mortgaged Property or to any part thereof.

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(b) Except as otherwise provided in this Mortgage, no new improvements shall be constructed on the Mortgaged Property and no part of the Mortgaged Property shall be removed, demolished or altered in any material manner without the prior written consent of Lender.

1.09 Transfer or Encumbrance of the Mortgaged Property. Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease (other than leases made in accordance with the provisions of this Mortgage) or encumbrance of, or any contract for any of the foregoing on an installment basis or otherwise pertaining to, the Mortgaged Property, or any part thereof, whether by operation of law or otherwise, without the prior written consent of Lender having been obtained (i) to the sale, assignment, conveyance, mortgage, lease, option, encumbrance or other transfer and (ii) to the form and substance of any instrument evidencing or contracting for any such sale, assignment, conveyance, mortgage, lease, option, encumbrance or other transfer. Without limitation of the foregoing, Lender may condition its consent upon any combination of (i) the payment of a fee to be set by Lender, (ii) the increase of the interest rate payable under the Note, (iii) the shortening of maturity of the Note and (iv) other modifications of the terms of the Note or the other Loan Instruments. Mortgagor shall not, without the prior written consent of Lender, further assign or permit to be assigned the rents from the Mortgaged Property, and any such assignment without the prior express written consent of Lender shall be null and void. Mortgagor shall not permit any interest in any lease of the Mortgaged Property to be subordinated to any encumbrance on the Mortgaged Property other than the Loan Instruments and any such subordination shall be null and void. Mortgagor agrees that in the event the ownership of the Mortgaged Property, any interest therein or any part thereof becomes vested in a person other than Mortgagor, Lender may, without notice to Mortgagor, deal in any way with such successor or successors in interest with reference to this Mortgage, the Note, the Loan Instruments and Borrower's Liabilities without in any way vitiating or discharging Mortgagor's liability hereunder or Borrower's Liabilities. No sale of the Mortgaged Property, no forbearance to any person with respect to this Mortgage, and no extension to any person of the time for payment of the Note or any other Borrower's Liabilities given by Lender shall operate to release, discharge, modify, change or affect the original liability of Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Lender. Mortgagor shall not permit the Mortgaged Property or any portion thereof to be submitted to the

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Condominium Property Act of the State of Illinois by filing a Declaration of Condominium Ownership or otherwise.

1.10 Further Assurances. At any time and from time to time, upon Lender's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Lender, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such further mortgages, security agreements, financing statements, instruments of further assurances, certificates and other documents as Lender may consider necessary or desirable in order to effectuate or perfect, or to continue and preserve the obligation and any instrument evidencing or securing Borrower's Liabilities and the lien of this Mortgage as a lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by Mortgagor, and unto all and every person or persons deriving any estate, right, title or interest under this Mortgage. Upon any failure by Mortgagor to do so, Lender may make, execute, record, register, file, re-record, re-register or refile any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Lender the agent and attorney-in-fact of Mortgagor to do so.

1.11 Security Agreement and Financing Statements.

(a) Mortgagor (as debtor) hereby grants to Lender (as creditor and secured party) a security interest under the Uniform Commercial Code in all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever constituting part of the Mortgaged Property. Mortgagor shall execute any and all documents, including without limitation financing statements pursuant to the Uniform Commercial Code, as Lender may request to preserve, maintain and perfect the priority of the first lien and security interest created hereby on property which may be deemed personal property or fixtures, and shall pay to Lender on demand any expenses incurred by Lender in connection with the preparation, execution and filing of any such documents. Mortgagor hereby authorizes and empowers Lender and irrevocably appoints Lender the agent and attorney-in-fact of Mortgagor to execute and file, on Mortgagor's behalf, all financing statements and refilings and continuations thereof as Lender deems necessary or advisable to create, preserve and protect such lien. When and if Mortgagor and Lender shall respectively become the debtor and secured party in any Uniform Commercial Code

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financing statement affecting the Mortgaged Property (or Lender takes possession of personal property delivered by Mortgagor where possession is the means of perfection of the security interest), then, at Lender's sole election, this Mortgage shall be deemed a security agreement as defined in such Uniform Commercial Code, and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law, or, as to such part of the security which is also reflected in such financing statement, by the specific statutory consequences now or hereafter enacted and specified in the Uniform Commercial Code.

(b) Without limitation of the foregoing, if an Event of Default occurs, Lender shall be entitled immediately to exercise all remedies available to it under the Uniform Commercial Code and this Paragraph 1.11. Mortgagor shall, in such event and if Lender so requests, assemble the tangible personal property at Mortgagor's expense, at a convenient place designated by Lender. Mortgagor shall pay all expenses incurred by Lender in the collection of such indebtedness, including reasonable attorney's fees and legal expenses, and in the repair of any real estate or other property to which any of the tangible personal property may be affixed. If any notification of intended disposition of any of the personal property is required by law, such notification shall be deemed reasonable and proper if given at least ten (10) days before such disposition. Any proceeds of the disposition of any of the personal property may be applied by Lender to the payment of the reasonable expenses of retaking, holding, preparing for sale and selling the personal property, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds may be applied by Lender toward the payment of such of Borrower's Liabilities, and in such order of application, as Lender may from time to time elect. If an Event of Default occurs, Lender shall have the rights of Mortgagor with respect to intangible personal property subject to the security interest granted herein. Any party to any contract subject to the security interest granted herein shall be entitled to rely on the rights of Lender without the necessity of any further notice or action by Beneficiary. Lender shall not by reason of this Mortgage or the exercise of any right granted hereby be obligated to perform any obligation of Mortgagor with respect to any portion of the personal property nor shall Lender be responsible for any act committed by the Mortgagor, or any breach or failure to perform by the Mortgagor with respect to any portion of the personal property.

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(c) Mortgagor and Lender agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be regarded as part of the real estate encumbered by this Mortgage irrespective of whether (i) any such item is physically attached to the Land or Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Lender, or (iii) any such item is referred to or reflected in any such financing statement so filed at anytime. Similarly, the mention in any such financing statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) Mortgagor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Lender as determined by this instrument or adversely affecting the priority of Lender's lien granted hereby or by any other recorded document. Any such mention in any such financing statement is declared to be for the protection of Lender in the event any court or judge shall at any time hold with respect to clauses (1), (2) or (3) above, that notice of Lender's priority of interest, to be effective against a particular class of persons, including, but not limited to, the federal government and any subdivisions or entity of the federal government, must be filed in the Uniform Commercial Code records.

1.12 Assignment of Rents. The assignment of rents, income and other benefits contained in Paragraph (G) of this Mortgage shall be fully operative without any further action on the part of either party, and, specifically, Lender shall be entitled, at its option, upon the occurrence of an Event of Default hereunder, to all rents, income and other benefits from the Mortgaged Property, whether or not Lender takes possession of such property. Mortgagor hereby further grants to Lender the right effective upon the occurrence of an Event of Default to do any or all of the following, at Lender's option: (i) enter upon and take possession of the Mortgaged Property for the

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purpose of collecting the rents, income and other benefits, (ii) dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to Lender, (iii) lease the Mortgaged Property or any part thereof, (iv) repair, restore and improve the Mortgaged Property, and (v) apply the rents, income and other benefits, after payment of all expenses and capital expenditures relating to the Mortgaged Property, on account of Borrower's Liabilities in such order and manner as Lender may elect. Such assignment and grant shall continue in effect until Borrower's Liabilities are paid in full, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Mortgaged Property by Lender pursuant to such grant, whether or not foreclosure proceedings have been instituted. Neither the exercise of any rights under this paragraph by Lender nor the application of any such rents, income or other benefits to payment of Borrower's Liabilities shall cure or waive any Event of Default or notice provided for hereunder, or invalidate any act done pursuant hereto or pursuant to any such notice, but shall be cumulative of all other rights and remedies. Notwithstanding the foregoing, so long as no Event of Default has occurred or is continuing, Mortgagor shall have the right and authority to continue to collect the rents, income and other benefits from the Mortgaged Property as they become due and payable but not more than thirty (30) days prior to the due date thereof. The existence or exercise of such right of Mortgagor to collect said rents, income and other benefits shall not operate to subordinate this assignment to any subsequent assignment of said rents, income or other benefits, in whole or in part, by Mortgagor, and any such subsequent assignment by Mortgagor shall be subject to the rights of Lender hereunder.

1.13 After-Acquired Property. To the extent permitted by, and subject to, applicable law, the lien of this Mortgage, including without limitation the security interest created under Paragraph 1.11, shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

1.14 Expenses. Mortgagor shall pay when due and payable, and otherwise on demand made by Lender, all loan fees, appraisal fees, recording fees, taxers, brokerage fees and commissions, abstract fees, title insurance fees, escrow fees, attorney's fees, court costs, documentary and expert evidence, fees of inspecting architects and engineers, and all other costs and expenses of every character which have

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been incurred or which may hereafter be incurred by Lender in connection with any of the following:

(a) The preparation, execution, delivery and performance of the Loan Instruments;

(b) The funding of the Loan;

(c) Any court or administrative proceeding involving the Mortgaged Property or the Loan Instruments to which Lender is made a party by reason of its being a holder of any of the Loan Instruments, including without limitation bankruptcy, insolvency, reorganization, probated, eminent domain, condemnation, building code and zoning proceedings;

(d) Any court or administrative proceeding or other action undertaken by Lender to enforce any remedy or to collect any indebtedness due under this Mortgage or any of the other Loan Instruments following a default thereunder, including without limitation a foreclosure of this mortgage or a public or private sale under the Uniform Commercial Code;

(e) Any remedy exercised by Lender following an Event of Default including foreclosure of this Mortgage and actions in connection with taking possession of the Mortgaged Property or collecting rents assigned hereby;

(f) Any activity in connection with any request by Mortgagor or anyone acting on behalf of Mortgagor that the Lender consent to a proposed action which, pursuant to this Mortgage or any of the other Loan Instruments may be undertaken or consummated only with the prior consent of Lender, whether or not such consent is granted; or

(g) Any negotiation undertaken between Lender and Mortgagor, or anyone acting on behalf of Mortgagor pertaining to the existence or cure of any default under or the modification or extension of any of the Loan Instruments.

If Mortgagor fails to pay said costs and expenses as above provided, Lender may elect, but shall not be obligated, to pay the costs and expenses described in this Paragraph 1.14, and if Lender does so elect, then Mortgagor will, upon demand by Lender, reimburse Lender for all such expenses which have been or shall be paid or incurred by it. The amounts paid by Lender in respect of such expenses, together

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with interest thereon at the Interest Rate (as defined in the Note) from the date paid by Lender until paid by Mortgagor, shall be added to Borrower's Liabilities, shall be immediately due and payable and shall be secured by the lien of this Mortgage and other Loan Instruments. In the event of foreclosure hereof, Lender shall be entitled to add to the indebtedness found to be due by the court a reasonable estimate of such expenses to be incurred after entry of the decree of foreclosure. To the extent permitted by law, Mortgagor agrees to hold harmless Lender against and from, and reimburse it for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including without limitation attorneys' fees, which may be imposed upon, asserted against, or incurred or paid by it by reason of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Mortgaged Property through any cause whatsoever, or asserted against it on account of any act performed or omitted to be performed hereunder, or on account of any transaction arising out of or in any way connected with the Mortgaged Property, this Mortgage, the other Loan Instruments, any of the indebtedness evidenced by the Note or any of Borrower's Liabilities.

1.15 Lender's Performance of Mortgagor's Obligations. If Mortgagor fails to pay any tax, assessment, encumbrance or other imposition, or to furnish insurance hereunder, or to perform any other covenant, condition or term in this Mortgage, the Note or any other Loan Instrument, Lender may, but shall not be obligated to, pay, obtain or perform the same. All payments made, whether such payments are regular or accelerated payments, and costs and expenses incurred or paid by Lender in connection therewith shall be due and payable immediately. The amounts so incurred or paid by Lender, together with interest thereon at the Interest Rate (as defined in the Note) from the date paid by Lender until reimbursed by Mortgagor, shall be added to Borrower's Liabilities and secured by the lien of this Mortgage and the other Loan Instruments. Lender is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any covenant, condition or term that Mortgagor has failed to perform or observe, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor. Performance or payment by Lender of any obligation of Mortgagor shall not relieve Mortgagor of such obligation or of the consequences of having failed to perform or pay the same and shall not effect the cure of any Event of Default.

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1.16 Payment of Superior Liens. To the extent that Lender, after the date hereof, pays any sum due under any provision of law or instrument or document creating any lien superior or equal in priority in whole or in part to the lien of this Mortgage, Lender shall have and be entitled to a lien on the premises equal in parity with that discharged, and Lender shall be subrogated to and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Lender to secure the Note and all obligations and liabilities secured hereby. Lender shall be subrogated, notwithstanding their release of record, to mortgages, trust deeds, superior titles, vendors' liens, mechanics' and materialmen's liens, charges, encumbrances, rights and equities on the Mortgaged Property to the extent that any obligation under any thereof is paid or discharged with proceeds of disbursements or advances under the Note or other indebtedness secured hereby.

1.17 Use of the Mortgaged Property. Mortgagor shall not suffer or permit the Mortgaged Property, or any portion thereof, to be used by the public, as such, without restriction or in such manner as might reasonably tend to impair Mortgagor's title to the Mortgaged Property or any portion thereof, or in such manner as might reasonably make possible a claim or claims of easement by prescription or adverse possession by the public, as such, or of implied dedication of the Mortgaged Property or any portion thereof. Mortgagor shall not use or permit the use of the Mortgaged Property or any portion thereof for any unlawful purpose.

1.18 Litigation Involving Mortgaged Property. Mortgagor shall promptly notify Lender of any litigation, administrative procedure or proposed legislative action initiated against Mortgagor, Beneficiary or the Mortgaged Property or in which the Mortgaged Property is directly or indirectly affected including any proceedings which seek to (i) enforce any lien against the Mortgaged Property, (ii) correct, change or prohibit any existing condition, feature or use of the Mortgaged Property, (iii) condemn or demolish the Mortgaged Property, (iv) take, by the power of eminent domain, any portion of the Mortgaged Property or any property which would damage the Mortgaged Property, (v) modify the zoning applicable to the Mortgaged Property, or (vi) otherwise adversely affect the Mortgaged Property. Mortgagor shall initiate or appear in any legal action or other appropriate proceedings when necessary to protect the Mortgaged Property from damage. Mortgagor shall, upon written request of Lender, represent and defend the interest of Lender in any proceedings described in this Paragraph

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1.18 or, at Lender's election, pay the fees and expenses of any counsel retained by Lender to represent the interest of Lender in any such proceedings.

1.19 Environmental Safety.

(a) Mortgagor shall, and Mortgagor shall cause all employees, agents, contractors and subcontractors of Mortgagor and any other persons from time to time present on or occupying the Mortgaged Property to, keep and maintain the Mortgaged Property, including the soil and ground water thereof, in compliance with, and not cause or knowingly permit the Mortgaged Property, including the soil and ground water thereof, to be in violation of, any applicable federal or applicable state or local laws, ordinances or regulations dealing with or otherwise pertaining to toxic or hazardous substances, wastes or materials ("Hazardous Materials"). Such laws, ordinances and regulations are hereinafter collectively referred to as the "Hazardous Materials Laws". Neither Mortgagor nor any employees, agents, contractors or subcontractors of Mortgagor or any other persons occupying or present on the Mortgaged Property shall use, generate, manufacture, store or dispose of on, under or about the Mortgaged Property or transport to or from the Mortgaged Property any Hazardous Materials, except as such Hazardous Materials may be required to be used, stored or transported in connection with the permitted uses of the Mortgaged Property and then only to the extent permitted by law after obtaining all necessary permits and licenses therefor.

(b) Mortgagor shall immediately advise Lender in writing of: (i) any notices received by Mortgagor (whether such notices are from the Environmental Protection Agency, or any other federal, state or local governmental agency or regional office thereof) of the violation or potential violation occurring on or about the Mortgaged Property of any applicable Hazardous Materials Laws; (ii) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any Hazardous Materials Laws; (iii) all claims made or threatened by any third party against Mortgagor or the Mortgaged Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i), (ii) and (iii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iv) Mortgagor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property that could cause the Mortgaged Property or any part

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thereof to be subject to any Hazardous Materials Claims. Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and Mortgagor shall pay to Lender, upon demand, all reasonable attorney's and consultant's fees incurred by Lender in connection therewith.

(c) Mortgagor shall be solely responsible for, and shall indemnify and hold harmless Lender, its directors, officers, employees, agents, successors and assigns from and against, any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence (whether prior to our during the term of the Note or otherwise and regardless of by whom caused, whether by Mortgagor or any predecessor in title or any owner of land adjacent to the Mortgaged Property or any other third party, or any employee, agent, contractor or subcontractor of Mortgagor or any predecessor in title or any such adjacent land owner or any third person) of Hazardous Materials on, under or about the Mortgaged Property; including, without limitation: (i) claims of third parties (including governmental agencies) for damages, penalties, losses, costs, fees, expenses, damages, injunctive or other relief; (ii) response costs, clean-up costs, costs and expenses of removal and restoration, including fees of attorneys and experts, and costs of determining the existence of Hazardous Materials and reporting same to any governmental agency; and (iii) any and all expenses or obligations, including reasonable attorneys' fees, incurred at, before and after any trial or appeal therefrom whether or not taxable as costs, including, without limitation, reasonable attorneys' fees, witness fees, deposition costs, copying and telephone charges and other expenses. Any loss, damage, cost, expense or liability incurred by Lender for which Mortgagor is responsible or for which Mortgagor has indemnified Lender shall be paid to Lender on demand, and, failing prompt reimbursement, such amounts shall, together with interest thereon at the Interest Rate under the Note from the date incurred by Lender until paid by Mortgagor, be added to Borrower's Liabilities, be immediately due and payable and be secured by the lien of this Mortgage and the other Loan Instruments.

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ARTICLE TWO

DEFAULTS

2.01 Event of Default. The term "Event of Default", wherever used in this Mortgage, shall mean any one or more of the following events:

(a) If Mortgagor shall (i) fail to pay when due (A) any payment of principal when such payment shall become due and payable under the Note whether at maturity or otherwise; (B) any payment of interest under the Note when due and payable; (C) any deposit for taxes and assessments due hereunder within five (5) days after such deposit is due hereunder or (D) any other sums to be paid by Mortgagor hereunder within five (5) days after such payment is due hereunder; or (ii) fail to keep, perform or observe any other covenant, condition or agreement on the part of the Mortgagor in this Mortgage and such failure shall continue for thirty (30) days.

(b) If a default shall occur under any of the Loan Instruments and the same is not cured within such cure, grace or other period, if any, provided in such Loan Instrument.

(c) If an "Event of Default" shall occur under and as defined in any of the Loan Instruments or the Loan Agreement.

(d) The untruth of any warranty or representation made herein or in any affidavit or certificate executed by Mortgagor or any person acting on behalf of Mortgagor in connection with the Note, the application therefor or the disbursement thereof.

(e) An uninsured loss, damage, destruction or taking by eminent domain or other condemnation proceedings of any substantial portion of the Mortgaged Property or any part of the Mortgaged Property which materially impairs any of the intended uses of the Mortgaged Property.

(f) The filing of any lien or claim for lien against any portion of the Mortgaged Property and the failure of Mortgagor, within thirty (30) days following the date of recording, to discharge such lien or to induce the title insurance company to commit to insure Lender over such lien.

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(g) The occurrence of a sale, assignment, conveyance, transfer, mortgage, lien or encumbrance of, or execution of a contract for any of the foregoing, in violation of Paragraph 1.09 hereof.

ARTICLE THREE

REMEDIES

3.01 Acceleration of Maturity. If an Event of Default shall have occurred, Lender may, without prior demand or notice, declare the outstanding principal amount of the Note and the interest accrued thereon and any other of Borrower's Liabilities to be immediately due and payable, and upon such declaration such principal and interest and other Borrower's Liabilities declared due shall immediately become and be due and payable without prior demand or notice.

3.02 Lender's Power of Enforcement. If an Event of Default shall have occurred, Lender may, either with or without entry or taking possession as provided in this mortgage or otherwise, and without regard to whether or not Borrower's Liabilities shall have been accelerated, and without prejudice to the right of Lender thereafter to bring an action of foreclosure or any other action for any default existing at the time such earlier action was commenced or arising thereafter, proceed by any appropriate action or proceeding: (a) to enforce payment of the Note and/or any other of Borrower's Liabilities or the performance of any term hereof or any of the other Loan Instruments; (b) to foreclose this Mortgage and to have sold, as an entirety or in separate lots or parcels, the Mortgaged Property; and (c) to pursue any other remedy available to it. Lender may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Lender may determine. Without limitation of the foregoing, if an Event of Default shall have occurred, as an alternative to the right of foreclosure for the full indebtedness evidenced by the Note and the interest accruing thereon and any other Borrower's Liabilities, after acceleration thereof, Lender shall have the right to institute partial foreclosure proceedings with respect to the portion of Borrower's Liabilities so in default, as if under a full foreclosure, and without declaring all of Borrower's Liabilities to be immediately due and payable (such proceedings being referred to herein as "partial foreclosure"), and provided that, if Lender has not elected to accelerate all of Borrower's Liabilities and a foreclosure sale is made

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because of default in payment of only a part of Borrower's Liabilities, such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of Borrower's Liabilities. Any sale pursuant to a partial foreclosure, if so made, shall not in any manner affect the unmatured portion of Borrower's Liabilities, but as to such unmatured portion, this Mortgage and the lien thereof shall remain in full force and effect just as though no foreclosure sale had been made. Notwithstanding the filing of any partial foreclosure or entry of a decree of sale therein, Lender may elect, at any time prior to a foreclosure sale pursuant to such decree, to discontinue such partial foreclosure and to accelerate Borrower's Liabilities by reason of any Event of Default upon which such partial foreclosure was predicated or by reason of any other defaults, and proceed with full foreclosure proceedings. Lender may proceed with one or more partial foreclosures without exhausting its right to proceed with a full or partial foreclosure sale for any unmatured portion of Borrower's Liabilities, it being the purpose to permit, from time to time, a partial foreclosure sale for any matured portion of Borrower's Liabilities without exhausting the power to foreclose and to sell the Mortgaged Property pursuant to any partial foreclosure in respect of any other portion of Borrower's Liabilities, whether matured at the time or subsequently maturing, and without exhausting at any time the right of acceleration and the right to proceed with a full foreclosure.

3.03 Lender's Right to Enter and Take Possession, Operate and Apply Income.

(a) If an Event of Default shall have occurred, (i) Mortgagor, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Mortgaged Property, and if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, is hereby expressly authorized to enter and take possession of all or any portion of the Mortgaged Property and may exclude Mortgagor, and the agents and employees of Mortgagor, wholly therefrom and shall have joint access with Mortgagor to the books, papers and accounts of Mortgagor; and (ii) notwithstanding the provisions of any lease or other agreement to the contrary, Mortgagor shall pay monthly in advance to Lender, on Lender's entry into possession, or to any receiver appointed to collect the rents, income and other benefits of the Mortgaged Property, the fair and reasonable rental value for the use and occupation of such part of the Mortgaged Property as may be in possession of Mortgagor, or any entity affiliated with or controlled by Mortgagor, and upon default in any such payment Mortgagor shall vacate and

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surrender possession of such part of the Mortgaged Property to Lender or to such receiver, and in default thereof Mortgagor may be evicted by summary proceedings or otherwise.

(b) If Mortgagor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after Lender's demand, Lender may obtain a judgment or decree conferring on Lender the right to immediate possession or requiring Mortgagor to deliver immediate possession of all or part of the Mortgaged Property to Lender, to the entry of which judgment or decree Mortgagor hereby specifically consents. Mortgagor shall pay to Lender, upon demand, all costs and expenses of obtaining such judgment or decree and reasonable compensation to Lender, its attorneys and agents, and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Mortgage.

(c) Upon every such entering upon or taking of possession, Lender, to the extent permitted by law, may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time:

(i) perform such construction, make all necessary and proper maintenance, repairs, renewals, replacements, additions and improvements thereto and thereon, and purchase or otherwise acquire additional fixtures and personal property;

(ii) insure or keep the Mortgaged Property insured;

(iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Mortgagor, on its behalf or otherwise, with respect to the same;

(iv) enter into agreements with others to exercise the powers herein granted Lender, all as Lender from time to time may determine; and Lender may collect and receive all the rents, income and other benefits of the Mortgaged Property, including those past due as well as those accruing thereafter; and shall apply the monies so received by Lender, in such order and manner as Lender may determine, to (1) the payment of interest, principal and other payments due and payable on the Note or pursuant to this Mortgage or to any other Borrower's Liabilities, (2) deposits for taxes and assessments, (3) the payment or creation of reserves for payment of insurance, taxes, assessments and other proper charges

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or liens or encumbrances upon the Mortgaged Property or any part thereof, and (4) the compensation, expenses and disbursements of the agents, attorneys and other representatives of Lender; and

(V) exercise such remedies as are available to Lender under the Loan Instruments or at law or in equity.

Lender shall surrender possession of the Mortgaged Property to Mortgagor only when all Borrower's Liabilities shall have been paid in full and all other defaults have been cured. However, the same right to take possession shall exist if any subsequent Event of Default shall occur.

3.04 Leases. Lender is authorized to foreclose this Mortgage subject to the rights, if any, of any or all tenants of the Mortgaged Property, even if the rights of any such tenants are or would be subordinate to the lien of this Mortgage. Lender may elect to foreclose the rights of some subordinate tenants while foreclosing subject to the rights of other subordinate tenants. The failure to make any subordinate tenant a party defendant to any foreclosure proceedings and to foreclose its rights will not be, nor be asserted by Mortgagor, any junior lien holder, any tenant or any other party claiming by, through or under Mortgagor to be, a defense to any such foreclosure proceeding or any other proceedings instituted by Lender to collect the sums secured hereby or to collect any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property. Each lease entered into by Mortgagor subsequent to the date hereof shall provide that, and any tenant under any such lease shall be subject to the following provisions whether or not such lease shall so provide, (i) Lender, at its election, may execute and record an instrument which shall be deemed to cause such lease to be either prior or subordinate (whichever Lender elects) to the lien of this Mortgage, (ii) upon any foreclosure hereof or the acceptance of a deed in lieu of foreclosure, the tenant under any such lease (other than a lease which is subordinate to the lien hereof and which is foreclosed in such foreclosure proceedings) shall attorn to the grantee in the deed or other purchaser at the sale and (iii) the tenant thereunder shall execute and deliver any confirmatory instruments which Lender may request in connection therewith. A failure by any such tenant to comply with any of the foregoing provisions shall constitute a default under such lease. Lender shall be made, constituted and irrevocably appointed as such tenant's attorney-in-fact so to do in the event that tenant shall fail to comply within ten (10) days after written demand

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from Lender. The omission of any such provision from any such lease or the failure to record any such instrument shall not affect Lender's rights under this Paragraph 3.04.

3.05 Purchase by Lender. Upon any foreclosure sale, Lender may bid for and purchase all or any portion of the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

3.06 Application of Foreclosure Sale Proceeds. The proceeds of any foreclosure sale of the Mortgaged Property or any part thereof received by Lender shall be applied by Lender to the indebtedness secured hereby in such order and manner as Lender may elect in a written notice to Mortgagor given on or before sixty (60) days following confirmation of the sale and, in the absence of such election, first to the expenses of sale, then to expenses including attorneys' fees of the foreclosure proceeding, then to interest and then to principal.

3.07 Application of Indebtedness Toward Purchase Price. Upon any foreclosure sale, Lender may apply any or all of the indebtedness and other sums due to Lender under the Note, this Mortgage or any other Loan Instrument or any other Borrower's Liabilities, or any decree in lieu thereof, toward the purchase price.

3.08 Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws. Mortgagor agrees, to the full extent permitted by law, that in case of an Event of Default, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any appraisement, valuation, stay or extension laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agrees that Lender or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the

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Illinois Mortgage Foreclosure Law (Chapter 110, Sections 15-1101 et seq., Illinois Revised Statutes) (herein called the "Act") or residential real estate (as defined in Section 15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to rein-statement and redemption as allowed under Section 15-1601(b) of the Act.

3.09 Receiver - Lender in Possession. If an Event of Default shall have occurred, Lender, to the extent permitted by law and without regard to the value of the Mortgaged Property or the adequacy of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Lender's election, to either the appointment by the court of a receiver (without the necessity of Lender posting a bond) to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct or to be placed by the court into possession of the Mortgaged Property as lender in possession with the same power herein granted to a receiver and with all other rights and privileges of a lender in possession under law. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. Lender shall be liable to account only for such rents, income and other benefits actually received by Lender, whether received pursuant to this Paragraph 3.09 or Paragraph 3.03. Notwithstanding the appointment of any receiver or other custodian, Lender shall be entitled as pledgee to the possession and control of any cash, deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Lender.

3.10 Suits to Protect the Mortgaged Property. Lender shall have the power and authority (but not the duty) to institute and maintain any suits and proceedings as Lender may deem advisable (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or which violate the terms of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property, or (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Lender's interest.

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3.11 Mortgagor to Pay Borrower's Liabilities in Event of Default; Application of Monies by Lender.

(a) Upon occurrence of an Event of Default, Lender shall be entitled to sue for and to recover judgment against Mortgagor for Borrower's Liabilities due and unpaid together with costs and expenses, including, without limitation, the reasonable compensation, expenses and disbursements of Lender's agents, attorneys and other representatives, either before, after or during the pendency of any proceedings for the enforcement of this Mortgage; and the right of Lender to recover such judgment shall not be affected by any taking of possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) In case of a foreclosure sale of all or any part of the Mortgaged Property and of the application of the proceeds of sale to the payment of Borrower's Liabilities, Lender shall be entitled to enforce all other rights and remedies under the Loan Instruments.

(c) Mortgagor hereby agrees, to the extent permitted by law, that no recovery of any judgment by Lender under any of the Loan Instruments, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of Mortgagor shall (except as otherwise provided by law) in any way affect the lien of this Mortgage upon the Mortgaged Property or any part hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until Borrower's Liabilities are paid in full.

(d) Any monies collected or received by Lender under this Paragraph 3.11 shall be applied to the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of Lender, and the balance remaining shall be applied to the payment of Borrower's Liabilities, in such order and manner as Lender may elect, and any surplus, after payment of all Borrower's Liabilities, shall be paid to Mortgagor.

3.12 Delay or Omission. No delay or omission of Lender in the exercise of any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to Lender may be exercised from time to time and as often as may be deemed expedient by Lender.

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3.13 Waiver of Default. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies in respect thereof. If Lender (a) grants forbearance or an extension of time for the payment of any sums secured hereby, (b) takes other or additional security for the payment thereof, (c) waives or does not exercise any right granted in the Note, this Mortgage or any other Loan Instrument, (d) releases any part of the Mortgaged Property from the lien of this Mortgage or any other Loan Instrument, (e) consents to the filing of any map, plat or replat of the Land, (f) consents to the granting of any easement on the Land, or (g) makes or consents to any agreement changing the terms of this Mortgage or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the lien of this Mortgage or any other Loan Instrument or the liability under the Note or other Loan Instruments of Mortgagor, any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, cosigner, endorser, surety or guarantor, except as otherwise expressly provided in an instrument or instruments executed by Lender. Except as otherwise expressly provided in an instrument or instruments executed by Lender, no such act or omission shall preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default, nor shall the lien of this Mortgage be altered thereby, except to the extent of any releases as described in clause (d), above, of this Paragraph 3.13.

3.14 Discontinuance of Proceedings; Position of Parties Restored. If Lender shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or such proceedings shall have resulted in a final determination adverse to Lender, then and in every such case Mortgagor and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceedings had occurred or had been taken.

3.15 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Lender by the Note, this Mortgage or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and

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remedy given hereunder or under the Note or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities, or now or hereafter existing at law, in equity or by statute.

3.16 Interest After Event of Default. If an Event of Default shall have occurred, all sums outstanding and unpaid under the Note and all other Borrower's Liabilities shall, to the extent permitted by law, bear interest thereafter at the Interest Rate as defined in the Note until such Event of Default is cured.

ARTICLE FOUR

MISCELLANEOUS PROVISIONS

4.01 Heirs, Successors and Assigns Included in Parties. Whenever Mortgagor, Lender or Beneficiary is named or referred to herein, heirs and successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Mortgage shall bind the successors and assigns of Mortgagor, including any subsequent owner of all or any part of the Mortgaged Property and inure to the benefit of the successors and assigns of Lender. This Section 4.01 shall not be construed to permit an assignment, transfer, conveyance, encumbrance or other disposition otherwise prohibited by this Mortgage.

4.02 Notices. All notices, requests, reports demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Lender shall be directed to Mortgagor or Lender as the case may be at the following addresses:

If to Lender:	Bank South, N.A. 55 Marietta Street, N.W. Atlanta, Georgia 30303 Attention: Mail Code 18
with a copy to:	Hilary P. Jordan, Esq. Kilpatrick & Cody 3100 Equitable Building Atlanta, Georgia 30303
If to Mortgagor:	Glasstream Boats, Inc. Highway 129 South Nashville, Georgia 31639 Attention: President
with a copy to:	Ernest Yates, Esq.

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Yates & Benson, P.C.
408 Tift Avenue
Tifton, Georgia 31793

Any such notices, requests, reports, demands or other instruments shall be (i) personally delivered to the offices set forth above, in which case they shall be deemed delivered on the date of delivery to said offices, (ii) sent by certified mail, return receipt requested, in which case they shall be deemed delivered three (3) business days after deposit in the U.S. mail, postage prepaid, or (iii) sent by air courier (Federal Express or like service), in which case they shall be deemed delivered on the date of actual delivery. Either party may change the address to which any such notice, report, demand or other instrument is to be delivered by furnishing written notice of such change to the other party in compliance with the foregoing provisions.

4.03 Headings. The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

4.04 Invalid Provisions. In the event that any of the covenants, agreements, terms or provisions contained in the Note, this Mortgage or in any other Loan Instrument shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein or in the Note or in any other Loan Instrument (or the application of the covenant, agreement, term held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

4.05 Changes. Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by Mortgagor and Lender relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance. Any holder of a lien or encumbrance junior to the lien of this Mortgage shall take its lien subject to the right of Lender to amend, modify or supplement this Mortgage, the Note or any of the other Loan Instruments, to extend the maturity of Borrower's

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88-4168

Liabilities or any portion thereof, to vary the rate of interest chargeable under the Note and to increase the amount of indebtedness secured hereby, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

4.06 Governing Law. This Mortgage shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Illinois.

4.07 Required Notices. Mortgagor shall notify Lender promptly of the occurrence of any of the following: (i) receipt of notice from any governmental authority relating to the violation of any rule, regulation, law or ordinance, the enforcement of which would materially and adversely affect the Mortgaged Property; (ii) material default by a tenant in the performance of its obligations under any lease to all or any portion of the Mortgaged Property or receipt of any notice from any such tenant claiming that a default by landlord in the performance of its obligations under any such lease has occurred; or (iii) commencement of any judicial or administrative proceedings by or against or otherwise adversely affecting Mortgagor or the Mortgaged Property.

4.08 Future Advances. This Mortgage is given to secure not only existing indebtedness, but also future advances (whether such advances are obligatory or are to be made at the option of Lender, or otherwise) made by Lender under the Loan Agreement, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time.

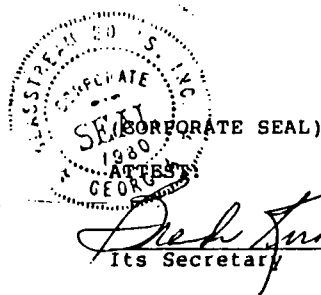
4.09 Release. Upon full payment of Borrower's Liabilities, Lender shall issue to Mortgagor an appropriate release deed for this Mortgage in recordable form.

4.10 Compliance with Illinois Mortgage Foreclosure Law. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Lender any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision,

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88-4168

Lender shall be vested with the rights granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

IN WITNESS WHEREOF, Mortgagor has caused this instrument to be executed by its duly authorized officers and its seal to be hereunto affixed as of the day and year first above written.



GLASSTREAM BOATS, INC.

By: 
Its President

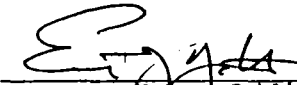
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88-4168

ACKNOWLEDGEMENT

STATE OF Georgia)
COUNTY OF Fulton) SS

I, ERNEST J. YATES, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT A.L. Kirkland, Jr. and Brenda Kirkland, President and Secretary, respectively of Glasstream Boats, Inc., personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, respectively, appeared before me this day in person and acknowledge that they signed and delivered said instrument as their own free and voluntary acts and as the free and voluntary act of said corporation, and the said officers acknowledged that Brenda Kirkland, as Secretary and as custodian of the corporate seal of said corporation, did affix said corporate seal to said instrument as her own free and voluntary act and as the free and voluntary act of said corporation for said uses and purposes.

GIVEN under my hand and notarial seal this 22nd day of July, 1988.


Notary Public

My Commission Expires:

February 1, 1991

[NOTARIAL SEAL]

ERNEST J. YATES
Notary Public, Fulton County, Georgia
My Commission Expires Feb 1, 1991



EXHIBIT A

PROMISSORY NOTE

July 22, 1988

\$850,000

FOR VALUE RECEIVED, the undersigned (hereinafter referred to as "Maker") promises to pay to the order of BANK SOUTH, N.A. (hereinafter referred to as "Payee") at Payee's office at 55 Marietta Street, N.W., Atlanta, Georgia, or at such other place as the holder hereof may designate, the principal sum of Eight Hundred Fifty Thousand and 00/100 Dollars (\$850,000), together with interest on so much of the principal balance of this Note as may be outstanding and unpaid from time to time, calculated on the basis of 360-day year and actual days elapsed, at the rate per annum of one and one-half percentage points (1.5%) above the Prime Rate as defined herein (the applicable rate per annum at any given time being hereinafter referred to as the "Interest Rate"). The Prime Rate in effect as of the execution of this Note is 9.5% per annum and the Interest Rate in effect as of the execution of this Note is 11.0% per annum.

Principal shall be repayable in eighty-four (84) consecutive monthly installments of \$10,119.05 each commencing on September 1, 1988, and continuing to be due on the same day of each succeeding month thereafter up to and through a final installment which shall be in an amount equal to the entire remaining unpaid principal balance of this Note and shall be due on August 1, 1995. Interest shall be payable on the same day of each month hereafter on which an installment of principal shall be payable until the indebtedness hereunder is paid in full. Any overdue payment of principal or interest on this Note shall bear interest at the Interest Rate until paid, but only to the extent that payment of such interest on overdue principal or interest is enforceable under applicable law.

As used herein, the term "Prime Rate" shall mean the rate of interest announced by Payee from time to time as its Prime Rate. For purposes of calculating interest hereunder, the Prime Rate in effect at the close of business on each business day of such bank shall be the Prime Rate for that day and any immediately succeeding nonbusiness day or days. In the event the Prime Rate is discontinued as a standard, the holder hereof shall designate a comparable reference rate as a substitute therefor.

Maker may prepay this Note in whole or in part at any time without penalty or premium, but each such prepayment shall be applied, first, to unpaid interest accrued through the date of such prepayment, and then to

88-4168

installments of principal in their inverse order of maturity without affecting Maker's obligation hereunder to pay any remaining immediately future installments of principal according to the schedule set forth above.

This Note is executed and delivered in connection with and is secured by the Mortgage and Security Agreement, dated as of this date, executed by Maker in favor of Payee (the "Mortgage").

The occurrence of any one or more of the following events will constitute a default by Maker hereunder (hereinafter referred to as an "Event of Default"): (i) Maker fails to pay when due any amount payable under this Note or otherwise fails to perform or breaches a covenant in this Note; (ii) any statement, representation, or warranty made by Maker or on Maker's behalf in connection with this Note proves to have been untrue; incorrect, misleading or incomplete in any material respect as of the date made; (iii) the occurrence of a default, event of default or Event of Default under the Mortgage referred to above, the Loan Agreement, dated as of December 29, 1986, between Maker and Payee (as amended from time to time), or any other agreement to which Payee and Maker are parties or under any other instrument executed by Maker in favor of Payee, including without limitation any loan and security agreement, loan agreement, security agreement, security deed, mortgage, note or guaranty; (iv) Maker becomes insolvent as defined in the Georgia Uniform Commercial Code or makes an assignment for the benefit of creditors, or an action is brought by Maker seeking Maker's dissolution or liquidation of its assets or seeking the appointment of a trustee, interim trustee, receiver or other custodian for any of its property, or Maker commences a voluntary case under the Federal Bankruptcy Code, or a reorganization or arrangement proceeding is instituted by Maker for the settlement, readjustment, composition or extension of any of its debts upon any terms, or an action or petition is otherwise brought by Maker seeking similar relief or alleging that it is insolvent or unable to pay its debts as they mature; (v) an action is brought against Maker seeking Maker's dissolution or liquidation of any of its assets or seeking the appointment of a trustee, interim trustee, receiver or other custodian for any of its property, and such action is consented to or acquiesced in by Maker or is not dismissed within thirty (30) days of the date upon which it was instituted, or a proceeding under the Federal Bankruptcy Code is instituted against Maker and an order for relief is entered in such proceeding or such proceeding is consented to or acquiesced in by Maker or is not dismissed within thirty (30) days of

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88-4168

the date upon which it was instituted, or a reorganization or arrangement proceeding is instituted against Maker for the settlement, readjustment, composition or extension of any of its debts upon any terms and such proceeding is consented to or acquiesced in by Maker or is not dismissed within thirty (30) days of the date upon which it was instituted, or an action or petition is otherwise brought against Maker seeking similar relief or alleging that it is insolvent, unable to pay its debts as they mature or generally not paying its debts as they become due and such action or petition is consented to or acquiesced in by Maker or is not dismissed within thirty (30) days of the date upon which it was brought; (vi) any guarantor of this Note terminates or attempts to terminate such guaranty; (vii) any material adverse change occurs in Maker's financial condition or means or ability to pay this Note; or (viii) the occurrence of any other event as a result of which Payee in good faith believes that the prospect of payment of this Note is impaired.

Upon the occurrence of an Event of Default, Payee, at its option, without demand or notice of any kind, may declare this Note immediately due and payable, whereupon all outstanding principal and accrued interest shall become immediately due and payable.

In case this Note is collected by or through an attorney-at-law, all costs of collection, including reasonable attorney's fees, shall be paid by Maker.

Time is of the essence.

Demand, presentment, notice, notice of demand, notice for payment, protest and notice of dishonor are hereby waived by each and every maker, guarantor, surety and other Person or entity primarily or secondarily liable on this Note.

Payee shall not be deemed to waive any of its rights unless such waiver be in writing and signed by Payee. No delay or omission by Payee in exercising any of its rights shall operate as a waiver of such rights and a waiver in writing on one occasion shall not be construed as a consent to or a waiver of any right or remedy on any future occasion.

This Note shall be governed by and construed and enforced in accordance with the laws of the State of Georgia. Wherever possible, each provision of this Note shall be interpreted in such manner as to be effective and

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88-4168

valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note.

Words importing the singular number hereunder shall include the plural number and vice versa, and any pronoun used herein shall be deemed to cover all genders. "Person" as used herein means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated association or government or any agency or political subdivision thereof.

The word "Payee" as used herein shall include transferees, successors and assigns of Payee, and all rights of Payee hereunder shall inure to the benefit of its transferees, successors and assigns. All obligations of Maker hereunder shall bind its successors and assigns.

SIGNED, SEALED AND DELIVERED by the undersigned as of the day and year first above set forth.

(CORPORATE SEAL)

GLASSTREAM BOATS, INC.

Attest:

Title: Secretary

By: Title: President

Address: Highway 129 South
Nashville, Georgia 31639

34-039
88-4168

EXHIBIT B

All of the following described tracts, pieces and parcels of land lying and situated in Franklin County, Illinois:

A part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14), and a part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section Twenty-three (23), all in Township Seven (7) South, Range Two (2) East of the Third Principal Meridian, more particularly described as follows: Beginning at the Northeast corner of the Northeast Quarter (NE 1/4) of Section 23, Township 7 South, Range 2 East of the Third P.M.; thence Westerly on the North line of the said Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 23 a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a bearing of South 89° 19' 10" East a distance of 600.00 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 10.88 feet to the point of beginning, Excepting a tract of land twenty (20) feet in width being ten (10) feet on each side of the following described line: Beginning at the Northeast corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 23, Township 7 South, Range 2 East of the Third P.M.; thence Westerly on the North line of the said Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of the said Section 23 a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.75 feet to the point of beginning for the aforementioned line; thence Westerly on a bearing of North 89° 10' 10" West a distance of 600.00 feet, said tract of land to be used for a drainage easement, and excepting all the coal, oil, gas and other minerals underlying the same and all rights and easements in favor of the owner of the mineral estate or of any party claiming by, through, or under said estate, situated in FRANKLIN COUNTY, ILLINOIS.

STANDARD FORM
UNIFORM COMMERCIAL CODE - FINANCING STATEMENT - FORM UCC-1

JUL 1988 BLUMBERG, 10015

INSTRUCTIONS

1. PLEASE TYPE this form. Fold only along perforation for making.
2. Remove Secured Party and Debtor copies and send other 3 copies with uninked carbon paper to the filing officer. Enclose filing fee.
3. If the space provided for any item(s) on the form is insufficient the item(s) should be continued on additional sheets. Preferably 8 1/2" x 11" or 8 1/2" x 10". Only one copy of such additional sheets need be presented to the filing officer with a set of three copies of the financing statement. Long a booklet of collateral, instrument, etc. may be on any size paper that is convenient for the secured party. Indicate the number of additional sheets attached.
4. If collateral is (isn't) goods, which are or are to become fixtures, describe generally the real estate and give name of record owner.
5. When a copy of the security agreement is used in a financing statement, it is requested that it be accompanied by a completed but unsigned set of these forms without extra fee.
6. At the time of original filing filing officer should return this copy as an acknowledgement. At a later time, secured party may date and sign Termination Legend and use that copy as a Termination Statement.

This FINANCING STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code:

1. Debtor(s) (Last Name First) and address(es)
GLASSTREAN BOATS, INC.
Highway 129 South
P. O. Box 943
Nashville, Georgia 31639

2. Secured Party(ies) and address(es)
BANK SOUTH, N.A.
P. O. Box 4387
Atlanta, Georgia 30302
Attn: Mail Code 18

3. Maturity date (if any):
For Filing Officer (Date, Time, Number, and Filing Office)

4. This financing statement covers the following type(s) (or items) of property:

The types or items of property covered by this financing statement are described on Exhibit "A" attached hereto. Some or all of the property covered by this financing statement are or are to become fixtures on the real estate described on Exhibit "B" attached hereto and this financing statement is to be filed in the real estate records. The Debtor is the record owner of such real estate.

5. Assignee(s) of Secured Party and
ABRAHAM OF ILLINOIS

County of Franklin

Document No. 88-4169

Filed for record

JUL 25 1988

10:55 clock A.M.
Fee paid \$10.00

INSTRUMENT PREPARED BY
HILARY P. JORDAN, ESQ.
KILPATRICK & CODY
360 EQUITABLE BUILDING
ATLANTA, GEORGIA 30303

This statement is filed without the debtor's signature to perfect a security interest in collateral. (check ☒ if so)

☐ already subject to a security interest in another jurisdiction when it was brought into this state.

☐ which is proceeds of the original collateral described above in which a security interest was perfected.

Filed with: Dave Dobell
Franklin County, Illinois

Check ☒ if covered. ☒ Proceeds of Collateral are also covered. ☒ Products of Collateral are also covered. No. of additional Sheets presented:

GLASSTREAN BOATS, INC.

BANK SOUTH, N.A.

By: *[Signature]*
Signature(s) of Debtor(s)

By: *[Signature]*
Title

By: *[Signature]*
Signature(s) of Secured Party(ies)

(1) Filing Officer Copy-Alphabetical

STANDARD FORM - FORM UCC-1.

(For Use in Most States)

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88-4169

EXHIBIT A TO
FINANCING STATEMENT OF
GLASSTREAM BOATS, INC., AS DEBTOR,
AND BANK SOUTH, N.A., AS SECURED PARTY

This financing statement covers the following types or items of property: (a) all of the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the land located in Franklin County, Illinois, legally described in attached Exhibit "B" (the "Land"), and, to the extent not owned by tenants of the Mortgaged Property, all machinery, appliances, equipment, furniture and all other personal property of every kind or nature located in or on or attached to, or used or intended to be used in connection with, or with the operation of, the Land or any buildings, structures, improvements or fixtures now or hereafter located or to be located on the Land, or in connection with any construction being conducted or which may be conducted thereon, and all additions, extensions, improvements, substitutions and replacements to any of the foregoing (collectively, the "Improvements"); (b) all building materials and goods which are procured or to be procured for use on or in connection with the Improvements or the construction of additional Improvements, whether or not such materials and goods have been delivered to the Land (collectively, the "Materials"); (c) all plans, specifications, architectural renderings, drawings, licenses, permits, soil test reports, other reports of examinations or analyses of the Land or the Improvements, contracts for services to be rendered to Debtor, Secured Party or otherwise in connection with the Improvements and all other property, contracts, reports, proposals and other materials now or hereafter existing in any way relating to the Land or the Improvements or the construction of additional Improvements; (d) all easements, tenements, rights-of way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers, and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate, or be appurtenant thereto, whether now owned or hereafter acquired (collectively, the "Appurtenances"); (e) (i) all judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto, (ii) all compensation, awards, damages, claims, rights of action and proceeds of or on account of (1) any damage or taking, pursuant to the power of eminent domain of the Land, Improvements, Appurtenances or Materials or any part thereof, (2) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances, Materials or of other property, or (3) the alteration of the grade of any street or

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88-4169

highway on or about the Land, Improvements, Appurtenances, Materials or any part thereof, (iii) all contract rights, general intangibles, actions and rights in action, including without limitation all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Land, Improvements, Appurtenances or Materials, and (iv) all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements, Appurtenances or Materials; (f) all rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (collectively, the "Rents"); (g) any and all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements, Appurtenances or Materials, together with all security therefor and guaranties thereof and all monies payable thereunder, and all books and records owned by Debtor which contain evidence of payments made under the Leases and all security given therefor (collectively, the "Leases"); (h) any and all after-acquired right, title or interest of Debtor in and to any of the property described in the preceding clauses of this Exhibit "A"; and (i) the proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding clauses of this Exhibit "A".

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88-4169

EXHIBIT B

LEGAL DESCRIPTION

All of the following described tracts, pieces and parcels of land lying and situated in the County of Franklin and the State of Illinois:

Beginning at the Northeast corner of the Northwest Quarter of the Northeast Quarter of Section 23, Township 7 South, Range 2 East of the Third Principal Meridian; thence Westerly on the North Line of the Said Northwest Quarter of the Northeast Quarter of Section 23 a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a Bearing of South $0^{\circ} 40' 50''$ West a distance of 1,315.74 feet; thence Westerly on a Bearing of North $89^{\circ} 19' 10''$ West a distance of 600.00 feet; thence Northerly on a Bearing of North $0^{\circ} 40' 50''$ East a distance of 1,326.62 feet; thence Easterly on a Bearing of South $89^{\circ} 19' 10''$ East a distance of 600.00 feet; thence Southerly on a Bearing of South $0^{\circ} 40' 50''$ West a distance of 10.88 feet to the Point of Beginning, containing 18.273 Acres (795,972 Square Feet) more or less.

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88-4169

EXHIBIT B

All of the following described tracts, pieces and parcels of land lying and situated in Franklin County, Illinois:

A part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14), and a part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section Twenty-three (23), all in Township Seven (7) South, Range Two (2) East of the Third Principal Meridian, more particularly described as follows: Beginning at the Northeast corner of the Northeast Quarter (NE 1/4) of Section 23, Township 7 South, Range 2 East of the Third P.M.; thence Westerly on the North line of the said Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 23 a distance of 304.59 feet to the point of beginning for this description; thence Southerly on a bearing of South 0° 40' 50" West a distance of 1,315.74 feet; thence Westerly on a bearing of North 89° 19' 10" West a distance of 600.00 feet; thence Northerly on a bearing of North 0° 40' 50" East a distance of 1,326.62 feet; thence Easterly on a bearing of South 89° 19' 10" East a distance of 600.00 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 10.88 feet to the point of beginning, Excepting a tract of land twenty (20) feet in width being ten (10) feet on each side of the following described line: Beginning at the Northeast corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 23, Township 7 South, Range 2 East of the Third P.M.; thence Westerly on the North line of the said Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of the said Section 23 a distance of 304.59 feet; thence Southerly on a bearing of South 0° 40' 50" West a distance of 240.75 feet to the point of beginning for the aforementioned line; thence Westerly on a bearing of North 89° 10' 10" West a distance of 600.00 feet, said tract of land to be used for a drainage easement, and excepting all the coal, oil, gas and other minerals underlying the same and all rights and easements in favor of the owner of the mineral estate or of any party claiming by, through, or under said estate, situated in FRANKLIN COUNTY, ILLINOIS.

THIS STATEMENT is presented to THE FILING OFFICER for filing pursuant to the Uniform Commercial Code:
Debtor(s) (Last name, first, and address):
Glasstream, Inc.,
Highway 129 South
P.O. Box 943
Nashville, Georgia 31639
Secured Party(ies) (Name and address):
Bank South, N.A.
P.O. Box 4387
Atlanta, Georgia 30302
Attn: Mail Code 18

For Filing Officer (Date, Time, County of Franklin)
Document No. 2099
Filed for record

AUG 19 1988

This Statement refers to original Financing Statement No. 1086 & mrtg records 88-416
Date filed: July 25, 1988 Filed with Franklin County, IL

at 10:50 o'clock A.M.
Fee paid \$ 6.00

- A. ☐ CONTINUATION The original financing statement between the foregoing Debtor and Secured Party, bearing the file number shown above, is still effective.
- B. ☐ PARTIAL RELEASE From the collateral described in the financing statement bearing the file number shown above, the property indicated below.
- C. ☐ ASSIGNMENT The Secured Party certifies that the Secured Party has assigned to the Assignee whose name and address is shown below, Secured Party's rights under the financing statement bearing the file number shown above.
- D. ☒ TERMINATION The Secured Party certifies that the Secured Party no longer claims a security interest under the financing statement bearing the file number shown above.
- E. ☐ AMENDMENT The financing statement bearing the above file number is amended:
☐ To show the Secured Party's new address as indicated below;
☐ To show the Debtor's new address as indicated below;
☐ As set forth below:

STATE OF ILLINOIS
County of Franklin
Document No. 2099
Filed for record

AUG 19 1988

Glasstream, Inc.
[Signature]
(Signature of Debtor, if required)

Bank South, N.A.
[Signature]
(Signature of Secured Party)

Dated: _____, 19____

By: _____

(1) Filing Officer Copy—Alphabetical This form of financing statement is approved by the Secretary of State.
STANDARD FORM—UNIFORM COMMERCIAL CODE—FORM UCC-3—REV. 11-75

GEORGE E. COLMAN
LEGAL FORMS

FORM NO. 100
A

RELEASE DEED
(ILLINOIS)

CAUTION: Consult a lawyer before using or acting under this form.
All warranties, including merchantability and fitness, are excluded.

**FOR THE PROTECTION OF THE
OWNER, THIS RELEASE SHALL
BE FILED WITH THE RECORDER
OF DEEDS OR THE REGISTRAR
OF TITLES IN WHOSE OFFICE
THE MORTGAGE OR DEED OF
TRUST WAS FILED.**

STATE OF ILLINOIS
County of Franklin
Document No. 88-4763
Filed for record

AUG 14 1988

at 10:59 o'clock A.M.
Fee paid \$ 7.00

Have Atwill

Above Space For Recorder's Use Only

KNOW ALL MEN BY THESE PRESENTS,

THAT Bank South, N.A., a national banking association, having its main office at
55 Marietta Street, N.W., Atlanta, Georgia 30303

of the County of Fulton and State of Georgia for and in consideration of one dollar, and for
other good and valuable considerations, the receipt whereof is hereby acknowledged, does hereby remise,
release, convey and quit-claim unto Mark Twain Boat Company, Inc. c/o James S. Gordon, Ltd.
(NAME AND ADDRESS)
Suite 404, 140 South Dearborn Street, Chicago, Illinois 60603

heirs, legal representatives and assigns, all the right, title, interest, claim, or demand whatsoever
may have acquired in, through, or by a certain Mortgage and Security Agreement
19 88, and recorded in the Recorder's Office of Franklin County, in the State of Illinois in Book
of _____ page _____ as Document Number 88-4168, to the premises therein described,
situated in the County of Franklin, State of Illinois, as follows, to wit:

See Exhibit "A" attached hereto and made a part hereof.

together with all the appurtenances and privileges thereunto belonging or appertaining.

WITNESS _____ hand and seal this 18th day of August, 1988.

Attest:

Title:

BANK SOUTH, N.A.

By:

Its:

STATE OF Illinois

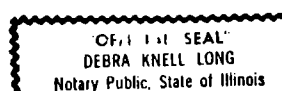
COUNTY OF Cook

I, Debra Knell Long

a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that
David M. Hart

personally known to me to be the same person whose name is subscribed to the
foregoing instrument, appeared before me this day in person, and acknowledged that he
signed, sealed and delivered the said instrument as his free and voluntary act, for the
uses and purposes therein set forth.

Given under my hand and official seal, this 18th day of August, 1988.



Commission expires

This instrument was prepared by James S. Gordon, Ltd., 55 W. Monroe Street
(NAME AND ADDRESS) Suite 700, Chicago, IL 60603

Exhibit B

Transferor's Sworn List of Creditors

STATE OF ILLINOIS

County of Cook

ss.

A. L. Kirkland, Jr.

being first duly sworn,
on oath says that he is the duly authorized agent of the
Transferor herein and that the following is a full, accurate and complete list of names and business addresses
of all creditors of Mark Twain Boat Company, a division of Glasstream Boats, Inc., Transferor,
together with the amounts owing to each of said creditors as far as known to Transferor, and also the names
and addresses of all persons who are known to Transferor to assert claims against Transferor, whether or
not such claims are disputed.

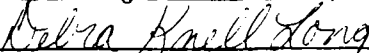
Affiant further says that he makes this statement for the purpose of effecting the transfer of the materials,
supplies, merchandise or other inventory and of the equipment now located at West Frankfort
Illinois, of Mark Twain Boat Company, a division of Glasstream Boats, Inc.,
Transferor. The schedule attached to this sworn statement contains a description of the property to be
transferred sufficient to identify it.

NAMES	BUSINESS ADDRESSES	AMOUNTS OWING OR CLAIMED
Bank South N.A.	55 Marietta Street, N.W., Atlanta, GA	\$850,000
Water & Sewer Utility	West Frankfort, Illinois	unbilled
Central Illinois Public Service Co. (electric service)	805 S. Logan West Springfield, Illinois	unbilled
Clover Leasing	104 N. 14th Street Herrin, IL 62948	\$250/month
State of Illinois Department of Revenue	101 W. Jefferson St. Springfield, IL 62708	unknown
Internal Revenue Service	Kansas City, MO 64999	unknown
GTE North, Incorporated	P.O. Box 7104 Indianapolis, IN 46207-7104	unknown
Southern Illinois Office Mart, Inc.	104 N. 14th St. Herrin, IL 62948	unknown
B.F.I. Waste Systems	716 Skyline Drive Marion, IL 62959	unknown

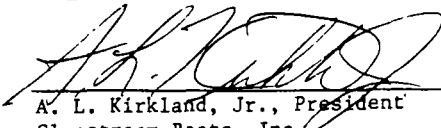
Subscribed and sworn to before me this

18th

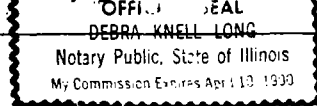
day

of August, 19 88


Notary Public.


A. L. Kirkland, Jr., President
Glasstream Boats, Inc.

*If made by agent of Transferor add "duly authorized agent of the"



LAW OFFICES
ERNEST J. YATES, P.C.
408 TIFT AVENUE
TIFTON, GEORGIA 31794

ERNEST J. YATES
HERBERT W. BENSON

August 17, 1988

TELEPHONE
(912) 362-6010

MAILING ADDRESS
P. O. BOX 1526
TIFTON, GA 31793

International Investors, Inc. and
Mark Twain Boats, Inc., as their
Interest May Appear

Attention: Robert Atanasov
% Mandel, Berezin
Feinstein and Booker
Suite 800
17 Academy Street
Newark, N.J. 07102

RE: ACQUISITION OF RIGHTS OF GLASSTREAM BOATS, INC. WITH
RESPECT TO PROPERTY OF MARK TWAIN INDUSTRIES, INC.

Dear Mr. Atanasov:

The purpose of this notice is to confirm [prior to the closing of the sale by Glasstream Boats, Inc. of rights acquired by Glasstream from the Trustee of Mark Twain Marine Industries, Inc. pursuant to the contract dated August 3, 1988] the disclosure of the fact, at the time of the negotiation and execution of such contract, that the following described boats were purchased by Glasstream Boats, Inc. from Barrett Boats independently and separately of the acquisition made by Glasstream Boats, Inc. from the Trustee and that the following boats are not to be included in the rights and the assets to be sold and purchased pursuant to such contract:

1. Mark Twain MTC 200 20 foot Cuddy with 205 Mercury engine, Serial No. 32297E888; and
2. Mark Twain MTS 242 24 foot Walk-Around Fishing Boat with 230 Mercury engine, Serial No. 31939J788.

Sincerely,


ERNEST J. YATES

EJY/pc

Federal Express

cc: Richard S. Kelin
Tishler & Wald
Glasstream Boats, Inc.

cc: by telecopier to Richard S. Kelin, attorney for International Investors, Inc. and Mark Twain Boats, Inc. at telecopier No. 201/624-3312

Acknowledged and Accepted this 18th day of August, 1988, by International Investors, Inc. and Mark Twain Boat Company, Inc.

By: 

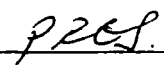
Title: 

Exhibit C